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Sup Ct

Vol. VI

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 14

REPUBLIC STEEL CORPORATION, PETITIONER,

vs.

NATIONAL LABOR RELATIONS BOARD AND STEEL WORKERS ORGANIZING COMMITTEE

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR CERTIORARI FILED FEBRUARY 7, 1940.

CERTIORARI GRANTED MAY 20, 1940.

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EDWARD HOPKINS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name?
A. Edward John Hopkins.
Q. Where do you live?
A. 1413 Roland Avenue, N. E.
Q. In Canton?
A. Yes, sir.
Q. How long have you lived in Canton?
A. About 25 years, or 30.
Q. Are you a married man?
A. Yes, sir.
Q. What is your position?
A. Superintendent of the 35-inch billet sheds.
Q. Of Republic Steel Corporation?
A. Yes, sir.
Q. Of what plant?
A. Canton plant.
Q. Now, will you tell us, and tell the Trial Examiner what a billet shed is?
A. A billet shed is a cleaning department.
Q. And what is that?
A. That is, after the mill rolls the steel, it comes into our supervision; then we take it and clean the defects from the surface of the steel.
Q. Now, just what is a billet?
A. A billet—a steel billet can be four by four size and section.
Q. That is, Mr. Hopkins, in inches? Four by four inches?
A. Yes, sir.
Q. Of steel?
A. Yes, sir.

Q. Now, I want to ask you something about these things. What is a four by four?

A. Or it can be larger than that; different sizes.

Q. Of steel?

A. Yes, sir.

Q. How much did they run in diameter and width?

A. Well, they run up to around 18 and 19 inches square.

Q. How low down do they run?

A. About two and a half square.

Q. How long are the billets?

A. Well, they will vary from, I would say, 30 inches. to about 25 feet.

Q. You say they came to the billet shed from where?

A. From the blooming mill and from the 18-inch mill and other mills: the finishing mills.

Q. When you get them to the billet shed, I understood you to say you cleaned the billet?

A. Yes, sir, we took the defects from the surface of the steel.

Q. And you say they came to the billet shed from where?

A. From the blooming mill, and also from the 18-inch mill and other mills—finishing mills and from different mills.

Q. And when you got them to the billet shed I understood you to say that you clean them?

A. Yes, sir.

Q. Cleaned the billet?

A. We take the defects from the surface of the steel.

Q. Now, do you have working there in your department men who are known as chippers?

A. Yes, sir.

Q. I wish you would describe for the record what a chipper does?

A. A chipper removes the defects from the steel with

a chipping hammer. A chipping hammer is forced with compressed air. That is what goes through the hammer and when he pushes the trigger on the hammer, why that forces the chip. That is how he takes out the defect, by pushing on the trigger, the compressed air takes the chip off of the surface of the steel.

Q. Now, does the chipper do anything else than that?

A. He does a little handling when he turns over his billets on the chipping beds, that is all.

Q. When he turns his billets under the chipping bed?

A. On the chipping bed.

Q. Yes, sir, on the chipping bed?

A. That is when he has one side finished, he has to turn it over.

Q. There has been some reference made in this case to the inspectors, the chipping inspectors?

A. Yes, sir.

Q. What do they do?

A. They mark the steel, they mark the defects. They look after the quality of the steel, to see that all of the defects are chipped out.

Q. Now, Mr. Hopkins, have you ever known a man named Will S. Wright?

A. Yes, sir.

Q. And did he work under you?

A. Yes, sir.

Q. In what capacity did he work?

A. He worked as a chipper.

Q. Can you tell us when he worked under you as a chipper?

A. I have known Mr. Wright for the past four years and I understand he started there in '22.

Q. Well, how long have you been superintendent of the billet shed?

A. About five years.

Q. And you have known Will Wright during four of those five years?

A. I would say about four years.

Q. And during that time that you knew him, was he employed, and if so, in what capacity?

A. As a chipper.

Q. During all of the time?

A. As far as I know, yes, sir, all the time.

Q. Do you remember when Will Wright ceased to work for Republic last?

A. Yes, sir.

Q. About what was the date?

A. About April 27th, 1937, this year.

Q. Well, prior to that time do you remember whether or not Will Wright was laid off at any time?

A. Yes, sir, he was laid off in '35, about March or about—yes, about March or May. Yes, it was about May, 1935.

Q. Do you remember when the Berger strike took place?

A. Yes, sir.

Q. When was the Berger strike?

A. About May 28th.

Q. And can you tell us when Will Wright was laid off, with relation to the time of the Berger strike?

A. He was laid off on the 22nd.

Q. Well, when was that? Before the Berger strike or after?

A. Before. That was six days before the Berger strike.

Q. When did he get back to work, if you know?

A. He came back to work in '36.

Q. Have you got his card there?

A. Yes, sir.

Q. Will you let me have all those cards?

MR. DAY: I just want to use these, if I may, to refresh my recollection in examining the witness.

Q. (By Mr. Day) He came back to work then when, in '36?

A. I couldn't tell you the month, but I know that it was in the year '36.

Q. And then how long did he work, that time?

A. Well, he worked right up until he was laid off in May—or in April the 27th, 1937.

Q. Now, why was Will Wright laid off?

A. Reducing the force.

Q. Reducing what force?

A. The force of chippers.

Q. I wish you would tell us in detail what the facts are within your knowledge as to the reduction of the force of the chippers at that time?

A. We didn't have enough tonnage going through the department to work all of the chippers and I might say that several of the older chippers came to me personally and thought they should not be penalized for the same as the younger men. Therefore, I took it up with Mr. Richardson.

Q. Who is Mr. Richardson?

A. Mr. Richardson is the plant superintendent.

Q. Yes.

A. And he advised me, after we thought the matter over, that it might be the thing to do to lay off some men, so he advised me to look it over. So we looked over our list, that is the length of service list, and we took the youngest men in service and started up the line and we took off about 45 men; 37 of those men was laid off and about 8 or 10 were transferred to other work.

Q. Do you know approximately where Will S. Wright came in that line?

A. Yes, sir, he was the 34th man.

Q. What does that mean, he was 34th man?

A. From the bottom. That is, he was the 34th in service, to be laid off.

Q. And state whether or not at that time some men whose service was longer than Mr. Wright's, were laid off?

A. Yes, sir, up to 45 men, whatever—just the way we worked, right from the bottom up.

Q. Over what period of time were these men laid off?

A. About five days.

TRIAL EXAMINER LINDSAY: Pardon me. Now, this is all back in '32, as I understand?

MR. DAY: No, this is '37.

THE WITNESS: '37.

MR. DAY: This is the time involved in the complaint, I am sorry if I have got it mixed up in any way, but that is the fact.

TRIAL EXAMINER LINDSAY: Well—

Q. (By Mr. Day) You are talking about April '37 situation, aren't you?

A. Yes, sir, the last lay-off.

Q. All right.

TRIAL EXAMINER LINDSAY: Well, now this is entirely off the record.

(Discussion held off the record.)

Q. Do you know a man named Sabri Shaban?

A. Yes, sir.

Q. Who is he?

A. He is a chipper.

MR. DAY: Mentioned in paragraph four, I think it is, of the complaint. Yes, paragraph four.

Q. (By Mr. Day) Who is Sabri Shaban?

A. He is a chipper.

Q. Did he work in your department?

A. Yes, sir.

Q. Can you tell when he first started to work there?

A. I couldn't say when he first started to work, but I know when he was laid off.

Q. Were you working in the billet shed before you became superintendent?

A. Yes, sir.

Q. In what capacity?

A. I worked as laborer, I worked as loader, worked as foreman, worked in the office.

Q. I want to ask you now, in determining the length of service, what is taken into consideration? The time that a man first starts, or the last stretch that the man has been working?

A. The last stretch. There is a ruling in the plant that when a man loses over thirty days, except—without being sick—he automatically loses his service record.

Q. That is the way you understood it?

A. Yes, sir.

Q. And that is the way you operated it?

A. Yes, sir.

Q. Now, Sabri Shaban, can you tell when he came back to work, when he worked the last stretch up until the time that he was laid off?

A. In '36 he came back.

Q. In '36?

A. Yes, sir.

Q. And when was he laid off?

A. He was laid off at the same time as Mr. Wright, about the same time.

Q. And he was also a chipper?

A. Yes, sir.

Q. Will you state why he was laid off?

A. Reducing the force.

Q. You have testified that in connection with the laying off, or at the time that Will Wright was laid off, you talked to Superintendent Richardson?

A. Yes, sir.

Q. At that time did you discuss any of these other men with him?

A. No, we didn't discuss any other men, only the number of men that we were going to lay off, and he told me to go ahead, it was o. k.

Q. Can you remember, or have you refreshed your recollection as to see where, on the length of service list, Sabri Shaban stood?

A. He stood about the 20th man.

Q. Do you know of your own knowledge, and if it is not your own knowledge, don't tell me, whether Sabri Shaban worked for Republic after he was laid off, before the strike?

A. I couldn't answer.

Q. What was the date of the lay-off of Sabri Shaban?

A. About April 27th, 1937.

Q. I will ask you if you know a man named Mike Ugranovich?

A. Yes, sir.

Q. And who is Mike Ugranovich?

A. He is a grinder.

Q. What department?

A. In the 35 inch billet shed.

Q. Well, what is the work that is performed by a grinder?

A. Removing defects from the steel with a grinding wheel.

Q. What I am going to ask you, for the information of all of us, is whether there is any difference between the work done by a chipper and the work done by a grinder?

A. The only difference is that one removes the steel or chips with a chisel and the other with a wheel, with a grinding wheel.

Q. And Ugranovich was—

A. The grinder.

Q. —was a grinder?

A. Yes, sir.

Q. Now, do you recall when or approximately when—

have you refreshed your recollection to ascertain when he was laid off?

A. It was in February, about the eighth day, 1937.

Q. Did you lay him off?

A. Yes, sir.

Q. Will you please tell the Court the circumstances under which you laid him off?

A. I laid him off for being intoxicated. He came to work on the 12:00 to 8:00 turn, on the 8th—that is, the 12:00 to 8:00 a. m. in the morning, and the inspector noticed that this man—there was something wrong with him.

Q. Just don't tell what the inspector noticed, but you can testify what—well, did you see the man in any state of intoxication yourself?

A. No, sir.

Q. Well, did you have any conversation with anybody in your department on this subject?

A. Yes, with the turn foreman.

Q. And state whether or not the turn foreman worked under you?

A. Yes, sir, he works under me.

Q. And what turn foreman did you talk to upon this subject?

A. Charles Eichelberger.

Q. What did Mr. Eichelberger say to you?

A. He says to me that when he came to work that evening, or midnight, that is, his attention was called to this man by his direct foreman, which we called the grinder boss.

Q. Who was the grinder boss, do you know?

A. Eugene George.

Q. Go ahead, give us the rest of Eichelberger's talk with you.

A. So Mr. Eichelberger went up to the grinding department and he noticed this man and he also smelled alcohol on his breath.

TRIAL EXAMINER LINDSAY: Now, just a minute. Is that what he told you?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Day) That is, you are just telling—at least, I just want you to tell what Eichelberger said to you.

A. Yes, sir.

Q. Is that what he said to you?

A. He said that to me in the morning, 8 o'clock.

Q. Go on, tell us what happened then.

A. So he sent the man home.

Q. Yes.

A. And told him to come out and see me in the morning.

Q. All right, then what happened?

A. So Ugranovich came out, I would say about 9 o'clock in the morning, so I told him that I was going to lay him off indefinitely because he had come to work intoxicated, and I don't think he said a whole lot to me at that time.

Q. Now, whether he said a whole lot or not, can you recall anything he said, or the substance of anything he said?

A. He tried to tell me that he was not intoxicated.

Q. Yes.

A. I told him that he was because my two foremen had told me that; that is, his direct foreman, the grinder boss and the turn foreman, and we knew that the inspector had noticed it—three men.

Q. What effect on the men, with the work that Ugranovich was doing, would his being intoxicated have, if you know? If there is any effect?

A. Very dangerous to the other workmen.

Q. Why is that true?

MR. LAUTER: I object to that answer.

MR. DAY: That is one of the cases involved here. He is named in the complaint.

TRIAL EXAMINER LINDSAY: Oh, I think you have gone into that far enough, Mr. Day.

MR. DAY: All right, sir.

TRIAL EXAMINER LINDSAY: I will let that answer stand. You may have the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not, if you know, Will S. Wright was discharged in May, 1935?

A. He was not discharged. He was laid off with about 20 or 25 other men.

Q. I will ask you whether or not, at about the time of the termination of the Berger strike, you remember having any talk with Mr. Wright upon the subject of his going back to work?

A. No, sir.

Q. I will ask you whether, at that time, you said to Mr. Wright in words or in substance "Bill, if you want to work here you have to stick with the company, you cannot have one foot over here and one foot over there and expect the company to stick with you?

A. I did not.

Q. And whether at that time you said to him "You are depending on the company for your living, aren't you?" And he said, "Yes."

A. I don't remember saying anything to him about that.

Q. When did Will Wright come back to work? That is, after the Berger strike?

A. In 1936?

Q. Yes, when?

A. In 1936.

Q. Do you know the date; can you refresh your recollection?

A. I can't tell you the date.

MR. DAY: Will the Trial Examiner bear with me for a little time while I am trying to use this record?

TRIAL EXAMINER LINDSAY: That is all right.

Q. I will ask you whether or not at—did you sometimes address safety meetings?

A. Yes, sir.

Q. Now, just tell us what safety meetings are.

A. The set-up of the Company by the Safety Department is that each direct foreman or either turn foreman must hold a meeting once a month with his men; a safety meeting. So they discussed in these safety meetings the hazards of the department and the surroundings.

Q. I will ask you whether or not you had a conversation with Mr. Wright in 1935 when he came back into the office in which you said: "Hey, you back" and Wright said: "Yes, sir, right back here." And you said: "Sit down." And said: "What are you going to do this time? Are you going to stick with the Company or not?" "Well" he said, "I am; I would like to work, and if sticking with the Company means work, that is just what I got." And you said: "Hell, I told you before you must stick with the Company but I am going to give you your job back if you stick with the Company" and he said: "Thank you, I will stick with the Company." That was after the Berger strike.

A. That was in 1936 when he came back. I might say when we were going—

Q. Answer the question. Did you have that conversation that I have just detailed to you, or that in substance with Will Wright?

A. No, sir. I might have said to him: "Are you back?"

Q. Now then, did you have a talk with Will Wright when he came back to work after the Berger strike some time in 1936?

A. Yes, sir.

Q. Can you recall what that conversation was or the substance of it?

A. When a man starts to work—

Q. Not when a man starts to work but I will ask you if you can recall what talk you had with Will Wright?

A. Only what I said to him there. I said to him: "Are you back?" He says: "Yes."

Q. Now, did you have any practice when a man started to work for the first time, or if a man was stopped working, and then comes back, what talk did you have with him?

MR. LAUTER: I object.

Q. Answer that yes or no.

MR. LAUTER: I object and ask that it be stricken.

A. I do.

TRIAL EXAMINER LINDSAY: Yes, I think that is not proper.

MR. DAY: Well, I will not press it if there is an objection to it; I will not press the question.

TRIAL EXAMINER LINDSAY: Objection sustained; the answer may be stricken out.

Q. I will ask you whether or not you remember attending a safety meeting in June, 1936.

A. I remember the date but I didn't attend safety meetings.

MR. DAY: By the way, let the record show that my previous question is withdrawn.

TRIAL EXAMINER LINDSAY: All right.

Q. In June, 1936, did you attend a safety meeting in which you said to the men, the workmen there: "You fellows don't want to be messed up with no outside Union because it is no benefits for you to be messed up with no outside Union if you want to work you cannot be tied up with no Unions." Did you say that or that in substance?

A. No, sir.

Q. Now, do you recall what you did say to the men at

those safety meetings or other safety meetings held on or about that time?

A. I could not; I don't have any record with me to show.

(Discussion off the record.)

Q. I will ask you whether you had a talk with Mr. Wright at or close to the time he was laid off in your office, in which you said to him in words or in substance: "The old men are kicking, the old men are raising Cain; they ain't making enough hours." And in which Will Wright said: "All right." And said to you: "Mr. Hopkins, you are cutting off the old men" and you said: "Yes." He said: "Mr. Hopkins, I started to work in 1922" and you said: "You were laid off once, wasn't you?" And he said: "Yes." And you said: "You know I told you before when I taken you back here that you had to stay on the right side of the fence if you wanted to work for the Company. That you couldn't have one foot over here and one foot over there if you wanted to work for the Company." Did you have that talk with him?

A. No, sir.

Q. Do you know whether or not you had a talk with Will Wright?

A. Yes, sir, when he was laid off.

Q. Now, what did he say?

A. I explained to him why the lay-off.

Q. Explain the substance as nearly as you can recall.

A. I explained to him the reason for the lay-off. We were reducing the force; we were taking the younger men in service and laying them off, I also said to him that the older men were complaining that they were being penalized in short turns. They were working only turns of seven or six hours a turn. That is why the old men were complaining.

Q. I will ask you whether or not if at the time of the

lay-off or about that time Mr. Wright told you: "Mr. Hopkins, when Mr. Ake brought us boys from Pennsylvania you told me and Mr. Bell down there on the platform that we was entitled to a job down there as long as we worked for the company. That even as long as they laid off any men we would have a job with the Company." And you said: "I am running this now." And he says: "Well, I am on the right side of the fence when I work." And you said: "You aren't gone, you know what I mean." Did you have that conversation with him?

A. No, sir.

Q. Do you recall having a talk with Mr. Ake and with Mr. Wright?

A. I wouldn't say that I did. I may have said something about it. He came in in 1922; I didn't have supervision at that time.

Q. Do you recall that?

A. No, sir.

TRIAL EXAMINER LINDSAY: We will have a short recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Q. (By Mr. Day) I have asked you to state whether or not you had certain conversations with Mr. Wright, and you have answered those questions, and I have attempted to fix the dates. Except as you have answered, did you have those conversations with him on any dates, except the way you have answered?

A. That is all.

Q. Do you remember of Mr. Shabin?

A. Yes, sir.

Q. Going to the old country?

A. Yes, sir.

Q. I will ask you whether you said to him, when he went to the old country in words—did you have any talk before he went to the old country—about his getting a position upon his return?

A. I don't remember whether I had any conversation with him but I must have, because it is always customary for me to give out the lay-off slip when it is possible to do so. But I can't remember what I told him at that time.

Q. That is, you don't remember what you told him?

A. No, sir.

Q. Well, do you know whether or not you said to him in words or substance: "When you get back I will give you a job."

MR. LAUTER: I object to that question. The witness has testified that he can't remember.

MR. DAY: This is the exact words of the other witness, and I think I have the right to meet it.

TRIAL EXAMINER LINDSAY: Yes, I will overrule the objection. Let the record show an exception.

Q. (By Mr. Day) If you can't remember, all right.

A. That is right.

Q. You can't remember what you said to him?

A. No, sir.

MR. LAUTER: May I have an exception to my objection?

TRIAL EXAMINER LINDSAY: Yes, let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) I will ask you whether or not you had a talk with Shabin on or about October 25, 1936, in which you—I will ask you whether you had this conversation: "I am going to give you a job if you listen to me." That is, you said that to him, and he said, "What, Mr. Hopkins, you say?" And you said, "If you listen to me,

what I am going to say to you," and he says, "That is all right, Mr. Hopkins, because I know I have no penny in my pocket, I ain't have no penny." And you said, "You will listen to me, I am going to give you a job." And he said, "All right, Mr. Hopkins, I have to listen, I am going to listen, sure." And did you say to him, "You belong to a union," and he says, "No," and did you say, "Did you belong to the C. I. O.," and he says, "No." Did you have that conversation with him?

A. No, sir.

Q. Do you recall what conversation you did have with him, if you had any, upon his return?

A. Only instructing him on safety and other things that we do with all new men when they come back.

MR. LAUTER: I object to what they do with all new men.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Day) I will ask you whether he said to you—you said to him, "What are you going to say to me now," and did he say, "I know I no have to sign my name, because I am hungry."

MR. DAY: I wonder if that ought not to be "I do have to sign my name". This is outside the record, for a minute.

(Discussion held off the record.)

MR. DAY: Now, we will make a correction on page 840 of the record.

TRIAL EXAMINER LINDSAY: Yes, and this is off the record for the time being.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: This part is for the record: The corrections to be made in the record are to be gone over by at least one of the attorneys for

the Board and one of the attorneys for the Respondent, and if there is any error in the record, that should be agreed upon as to the correctness by the attorneys representing the Board and the attorneys representing the Respondent, and made a part of the record as corrected.

MR. DAY: This is in the record?

TRIAL EXAMINER LINDSAY: Yes, this is in the record.

MR. DAY: We shall be very glad to cooperate with the Trial Examiner and opposing counsel to that end.

TRIAL EXAMINER LINDSAY: And when the record is completely corrected and gone over—

MR. DAY: Yes.

MR. LAUTER: May I state for the record that one of the counsel for the Board is at the present time engaged in going over the record and searching it for such incorrectnesses as may appear there.

MR. DAY: I will say that we will put somebody on the job just as soon as it is physically possible.

TRIAL EXAMINER LINDSAY: And that agreement is entirely satisfactory.

MR. DAY: Yes, sir, it is.

Q. (By Mr. Day) Now, going back again, I will ask you if you said to him in October, 1936, you said to him: "What are you going to say to me now?" And he said, "I know I do have to sign my name because I am hungry," and if you said, "If you will listen to me that way, I am going to give you a job right now." And he said, "All right, Mr. Hopkins." Did that conversation take place?

A. I wouldn't know what he would sign.

Q. What?

A. I would not know what he meant by saying he would sign, he had to sign.

Q. Well, did you have that conversation with him?

A. No, sir.

Q. In words or in substance?

A. No, sir.

Q. Now, he started back to work about the 29th of October, 1936, is that right? Mr. Shabin?

A. What is that again?

Q. Shabin started back to work in October, 1936?

A. Yes, sir, sometime in 1936.

Q. And I think you have already testified that he was laid off?

A. Yes, sir.

Q. April?

A. The 27th.

Q. April 27th, 1937? Now, I will ask you whether or not about three or four days before April 27, 1937, you had a talk with him in which you took from his pocket a steel worker's paper?

A. That is not true.

Q. Did you have any talk concerning a steel worker's paper with him?

A. No, sir. I would have to talk with a lot of them if I did, because they handed them out at various departments.

MR. LAUTER: I move that answer go out.

MR. DAY: Yes, I think that ought to go out.

TRIAL EXAMINER LINDSAY: That will go out.

MR. DAY: Except "no, sir", I think should stay in.

TRIAL EXAMINER LINDSAY: That is all.

Q. Did you at that time, three or four days, say to him: "Listen to me, what I will say to you." And then did you say, "Why you no listen to me when I say I would give you a job." Did you have any such a talk as that with him?

A. No.

Q. Did you have a talk with him later before April 27th, or close to that time, 1937, in which you said to him

in words or in substance that he had not listened to you, and you gave him a job, and that you had found out that he belonged to the C. I. O.?

A. No, sir.

Q. Did you ever have any talk with him about the C. I. O.?

A. No, sir.

Q. Now, I have asked you certain conversations with Mr. Shabin and I have tried to give the dates. Except as you have already stated, did you have those conversations with him at any time?

A. No, sir.

Q. As you have already stated?

A. Yes, sir.

Q. But to that extent only?

A. Yes, sir.

Q. Well, do you know of your own knowledge whether or not, after April 27, 1937, Mr. Shabin worked for any other department of Republic Steel?

MR. LAUTER: Object. The witness has already testified he doesn't know.

MR. DAY: That was the other man, Mr. Will Wright.

MR. LAUTER: I am sorry.

MR. DAY: Maybe I am wrong about that.

Q. (By Mr. Day) I think you said you didn't know about Shabin?

A. No, sir, I don't know.

MR. DAY: Well, this was handed to me, and I asked that question improperly.

(The record was read.)

MR. LAUTER: Mr. Day withdrew his question and I withdrew my objection.

Q. (By Mr. Day) Do you know a man named Stokes?

A. Yes, sir.

Q. What is his first name?

A. Sam.

(Discussion held off the record.)

Q. (By Mr. Day) Who is Sam Stokes?

A. He is a grinder.

Q. How long did he work before the strike? That is, did he work up until the strike?

A. Yes, sir, he worked up to the strike.

Q. Do you know a man named Schnierle?

A. Yes, sir.

Q. What was his position before the strike?

A. Billet classifier.

Q. Was he at that time a foreman in your department?

A. No, sir.

Q. Do you know a man named William Dunn?

A. Yes, sir.

Q. What is his position in your department?

A. He is a loader.

Q. Does he, as you understand it, hold the position of a foreman?

A. No, sir, he does not.

Q. I will ask you whether or not you recall having a conversation with Sam Stokes concerning his going to the washroom or making trips to the washroom?

A. I don't remember of any.

Q. You don't remember whether you did or did not, is that right?

A. That is right.

Q. I will ask you whether or not, just before the strike or shortly before the strike you stood for sometime and watched Sam Stokes talking with William Dunn?

A. No, sir.

Q. Now, in the first part of April of this year, do you recall that there was a meeting between you and some of the men in your department about laying off grinders and so forth?

A. Yes, sir.

Q. And was Sam Stokes there?

A. Yes, sir.

Q. Where was that meeting held?

A. They came, first, into my office.

Q. Who came in, if you remember?

A. Well, I was at the main office when they came in. I was not in my office.

Q. Yes.

A. And I was called down to my office because there was a group of men in there had a complaint.

Q. Well, was Sam Stokes one of them?

A. He was one of the spokesmen.

Q. Now, how many men came in?

A. About 15 men, I would say.

Q. And were they men that you knew?

A. They were grinders, yes, sir, working there.

Q. By "grinder" they were working in your department and had been working there?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. Now, just tell us what took place at that meeting as you remember it, what was said?

A. When I came down from the office I noticed a group of men was in the office. The first thing, I said to the men: "What was the trouble?" They said: "We had heard," they said, "that we were going to lay off so many men a turn." That it takes five men or six men a turn in preference to laying the men off entirely. So he said they didn't want that; they weren't satisfied with that. Well, I said: "You haven't done what is right, why don't you go to the representative? Why did you come to me? Why don't you go to the representative like you have in the past?" Well, he said: "They don't want to talk with the representative." He said they said they wanted to speak

to me personally. I said: "All right." Being there wasn't enough room in my office I asked them to go somewhere else and we went to the Wheel Room; we went down with the representative.

Q. Now, who was the representative?

A. George Schnierle.

Q. George Schnierle?

A. Yes.

Q. By the way, was Mr. Dunn represented too?

A. Yes, sir.

Q. Mr. Dunn was a representative under the Employees Representation Plan?

A. Yes, sir.

Q. And so was Mr. Schnierle?

A. Yes, sir.

Q. Now, what department was that for, if you know?

A. Sir.

Q. For what department?

A. For the 35-inch billet.

Q. Now, you were telling us about going down into this room. What happened there?

A. So we went down to the Wheel Room, and all the grinders came in. So I tried to explain to them about their coming to me was not right like that; wasn't right. That they should have taken it up with the representatives. I explained to them what we were trying to do.

Q. What did you say?

A. I told them what we wanted to do was to lay so many of them off a day in preference to laying them off entirely. They didn't want that. I said it is either one thing or another. It is either laying so many men off a day or laying them off entirely. They didn't want the men to be laid off daily; so later on we laid them off—we decided—the superintendent and the other head men decided to lay them off.

Q. What happened? Did you see Schnierle after that?

A. My foreman came to me and says: "I believe that Sam or someone is telling some things; Sam is not doing this himself." So I asked the foreman to have Sam come in to the office at the end of this turn.

Q. Now, what talk did you have with Sam?

A. I said: "Sam, you haven't done what is right in bringing the group of men in the office." So I said to him: "What you want to do is use your own judgment; don't let other men tell you what to do." He said: "I believe you are right."

MR. LAUTER: I object to "I believe you are right." I move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: That part of the answer is stricken.

Q. Now, did you have any other talk with Sam Schnierle at that time?

A. Later on, shortly after we laid him off, Sam came to me one day and asked me if I wouldn't change, and lay so many men off a day. I said I couldn't do it. I said I have already laid the men off. "We can't let men go and bring them back; it is not easy to do." He was the only man that came to me and made a complaint. He was the man that came in the office and didn't want to let so many men off a day. He wanted to change that back. I couldn't do it. The men were already laid off.

Q. Do you recall seeing a C. I. O. button on Sam Schnierle?

A. No, sir.

Q. You have no recollection?

A. No, sir, on nobody at that time. I didn't see any.

Q. Did you pass out any petitions in the mill to the effect everybody was satisfied?

A. No. sir.

Q. I will ask you whether or not you ever said to Ugranovich—Mr. Ugranovich—"Don't belong to the outside Union. You got to stick with the Company Union. If

I find any more men outside he cannot work for me." Did you say that?

A. No, sir.

Q. Did you ever make that statement at that time at the plant?

A. No, sir.

Q. Did you ever say: "If you fellows are foolish enough to spend your money outside you better get your money, keep your money in the—in your pocket, you don't have to spend anything?"

A. No, sir.

Q. I will ask you if about the time Ugranovich was discharged you had a talk with him in which he said: "What is going on, Mr. Hopkins?" And you told him something about his work being slow?

A. He was a capable worker.

Q. Did you ever have any talk with him about his work being slow?

A. That is not true.

Q. About what kind of a worker was he?

A. A capable worker.

Q. What kind of a worker was Schnierle?

A. I would say Schnierle was a good worker.

Q. Well, what kind of a worker was Wright, the colored fellow?

A. A chipper.

Q. I will ask you if you had a talk with Ugranovich in which he said: "What is going on, Mr. Hopkins?" Just about the time he was laid off.

A. Well—

Q. You said: "You have got some slow work five or six weeks on a job. You have worked almost three years doing my work. Don't you mind that strike in the plant." And he said: "Yes, sir." And you said: "I give you a chance that time, and still now there is something else out-

side, some kind of a name, C. I. O., and you are in it already."

A. No, sir, nothing about the C. I. O. at that time.

Q. Do you know a man by the name of Kutchell?

A. Yes, sir.

Q. Now, who is Kutchell?

A. Kutchell is an inspector.

Q. In the chipping department?

A. He works in the chipping department but he does not come under my direct supervision. He comes in the inspection department.

Q. Then you didn't have anything directly to do with Kutchell?

A. No, sir.

Q. That was handled by whom?

A. That was handled by Elsasser.

Q. Do you know anything about there being some change in the position of Mr. Kutchell?

A. Yes, sir, I do.

Q. You have your own knowledge on that?

A. Well, I know there was a change, yes, sir.

Q. Well, was it made under your supervision?

A. No, sir.

Q. Well, what was he before the change?

A. He was a chipping inspector in the chipping shed.

Q. Then what was he made afterwards?

A. He was made a worker on the scarfing bed.

Q. What is this scarfing bed? What is the process of scarfing?

A. Scarfing is a new operation for cleaning steel. It is something new, really. It is steel in an instrumental stage. It is a torch where we use oxygen and acetylene and we burn out the defects instead of using a chisel or a grinding wheel.

Q. Was Kutchell changed from chipping to scarfing?

A. Yes, sir, he was put on a scarfing bed as an inspector.

Q. Now, tell whether or not that would be a demotion or a promotion or an even change?

A. In wages it was a demotion. The hourly rate was less.

Q. Was he put over there, do you know, permanently or temporarily or what?

A. He was put out there permanently.

Q. He got less money?

A. Yes, sir, as far as I know.

Q. You don't know about the details of that?

A. No.

MR. DAY: Now, that is all except that I would like to recall this witness after the noon hour.

TRIAL EXAMINER LINDSAY: In other words, you may wish to recall this witness?

MR. DAY: Yes. I may but I hope I won't have to.

Cross Examination

Q. (By Mr. Lauter) Mr. Hopkins, during the period of the strike, were there any machine guns in the plant?

MR. DAY: I object to that on the ground that it is not proper cross-examination.

TRIAL EXAMINER LINDSAY: Objection overruled. Note an exception.

MR. DAY: Exception.

A. I didn't see any.

Q. You are sure you didn't see any?

A. No, sir, no machine guns.

Q. You don't know whether there was any there or not?

A. No, sir, I don't.

Q. How many men worked under you?

A. About 400 men.

Q. What is the name of your department?

A. 35-inch billet shed.

Q. During the strike, did some of the men in your department stay at work?

A. The last strike you have reference to?

Q. That is right.

A. Yes, sir.

Q. Were they furnished meals?

A. Yes, sir.

Q. Without cost?

A. Yes, sir.

Q. They got time and three-quarters?

A. Yes, sir.

Q. When did you notify them that they were going to get time and three-quarters?

A. About the third or fourth day.

Q. Did you make the decision yourself to pay them that much money?

A. No, sir, I got the decision from the main office. They called up and told me.

Q. When did they call up and tell you?

A. Three or four days.

Q. Told you to pay all the men in your department time and three-quarters?

A. Yes, sir.

Q. When did they tell you to bring cots in the plant?

A. About the second—about the first or second day. We started to get them in there then.

Q. Did you get any the first day of the strike? The night of the strike?

A. I can't answer that; I don't remember that. It was about the second day, I would say.

Q. What is that?

A. It was about the second day, I would say.

Q. You don't remember whether or not there were cots on the first night of the strike?

A. No, sir.

Q. Where did you sleep?

A. I slept in the office.

Q. You didn't have a cot?

A. No, sir.

Q. Any of the other men use a cot?

A. Not as I know; not the first night. I am not sure of that.

Q. What is that?

A. I am not sure of that.

Q. You are not sure of what?

A. Of the first night or if they had cots or what. I didn't have a cot, and the second night I would say yes.

Q. Did you arrange for bringing cots in there?

A. Yes, sir, I talked with the storekeeper.

Q. Storekeeper in the plant?

A. Yes, sir.

Q. And you arranged about the second night—

A. Yes, sir.

Q. —for cots to be brought in?

A. Yes.

Q. You are sure you don't recall about making arrangements for cots the first night?

A. Yes, sir. I might have called up but I could not get them possibly. It was possible we didn't get them. I don't remember whether they had them.

Q. Well, if witnesses testified on the stand, or employees, that they slept on cots the first night, you would not say their testimony was wrong, would you?

A. No, sir.

Q. But you don't remember machine guns being in the plant?

A. I don't.

Q. You didn't hear there were any?

A. No, sir.

Q. No one told you that there were machine guns in the plant?

A. No, sir.

Q. Do you know Mr. Theodore Roosevelt Brown?

A. Yes, sir.

Q. Did you have a conversation with him while he was in the plant?

A. Yes, sir.

Q. Will you detail that conversation?

A. Sir?

Q. Will you relate that conversation?

A. Why, I believe something happened in regard to sickness—

MR. LAUTER: I move that the witness' remark be stricken from the record.

TRIAL EXAMINER LINDSAY: Just tell us what you said to him and what he said to you and nothing else.

THE WITNESS: About what?

Q. The time that you had the conversation with him? Just relate the conversation.

A. I don't remember having a conversation other than what I am going to explain to you about those things relative to sickness.

Q. All right. Just state what he said and what you said.

A. In regard to the sickness?

Q. In regard to the conversation you had with him.

A. He came to me and told me there was somebody dying or someone sick.

Q. Yes.

A. I said to him: "Maybe you better go home." And I suggested to him that he should go home. He said that he was going home. So I asked him how he was going to get out, so he says: "I don't know." Well, I said: "I will

see what I can do for you." And I called up the clerk in Mr. Richardson's office, which we had to do in any case of that kind—we had to report to them. I understand he did get home.

Q. You say you had to report to Mr. Richardson?

A. Yes, sir.

Q. In any case?

A. Yes, sir.

Q. What do you mean, that you had to report to Mr. Richardson?

A. Well, where a man called up about going home, and then they would take care of it. I didn't have the power to call up the police patrol or anything of that nature. It was up to him.

Q. Did you have the power to let him go out of the plant?

A. I had the power to let him go out of the plant, sure, if they wanted to go. I didn't stop anybody.

Q. Did any of the others ask you to let them go out of the plant?

A. I don't remember.

Q. So Theodore Roosevelt Brown was the only one you can remember who asked you to go out of the plant?

A. Yes, sir.

Q. That is the only one you can recall?

A. Yes, sir. There may have been others but I can't remember.

Q. Now, you addressed some of the safety meetings at the plant, is that correct?

A. Yes, sir.

Q. At those meetings questions of safety were discussed?

A. Yes, sir.

Q. Was that the purpose of the meeting?

A. Yes, sir.

Q. Did you at any of those meetings discuss the Employees Representation Plan?

A. Yes, sir.

Q. Do you recall any of the meetings at which you discussed the Employees Representation Plan?

A. I can't recall the meeting because I wouldn't get into these meetings. The group meetings you have reference to that the men—I would get in there maybe three or four months; something like that.

Q. Is that as often as you attended the safety meetings; three or four months?

A. Well, there was various safety meetings held which foremen held. Each foreman held a meeting.

Q. I am asking you whether or not that is as often as you personally attended safety meetings in the plant, once in three or four months?

A. No, sir.

Q. How often would you attend safety meetings in the plant?

A. I attended one safety meeting every month.

Q. Is that as often as you attended safety meetings?

A. Yes, sir.

Q. Just one a month or at least one a month?

A. One a month. If I would go into these other meetings I would be in twice.

Q. Two a month?

A. Two a month.

Q. Now, these two a month meetings. Tell me what you said in substance to the men about the Employees Representation Plan.

A. I would show them the good things of it. The first thing I would tell them they wouldn't need to pay anything; I would tell them it was free: No monthly dues. If there were any complaints, they could take care of it with the men in the plant; get it settled quicker.

Q. What else?

A. That is all I told them about representation.

Q. Now, did you mention whether or not the C. I. O. required dues?

A. No, sir.

Q. What did you say about the C. I. O.?

A. I might say there was individuals in the plant that came to me personally—

Q. I am not interested in the individuals that came to you personally. I am interested in what happened at these safety meetings.

A. Just I am trying to show you what I would tell them.

TRIAL EXAMINER LINDSAY: Just a minute. It doesn't make any difference about what you tried to tell them. The fact is, did you or didn't you? Mr. Reporter, read that question.

(The last question was read.)

Q. Did you say anything about that at the safety meetings?

A. I didn't say nothing about the C. I. O. to them.

Q. Did you make any comparison between the E. R. P. and the fact that it didn't require any dues, and the C. I. O. and the fact that they did require dues?

A. No, sir. I did tell them this: That a man in that didn't need to belong to any organization.

Q. You told them that?

A. Yes, sir.

Q. You are now testifying that you never mentioned a word about the C. I. O. or any other organization other than the E. R. P. at any of these safety meetings?

A. That is right.

Q. Not a single safety meeting did you ever mention the C. I. O., is that correct?

A. That is right.

Q. But you did talk about the E. R. P.?

A. Yes, sir.

Q. Now, what else did you say about the E. R. P.?

A. That is about all I told them; that is what I told them.

Q. Now, how often would these safety meetings be held?

A. About once a month by each foreman.

Q. And you attended at least two safety meetings a month?

A. Yes, sir.

Q. At these meetings you would mention what you have already said?

A. Yes, sir.

Q. About the E. R. P.; is that correct?

A. Yes, sir.

Q. Were any records kept of these safety meetings?

A. Yes, sir, the foreman—

Q. Are there minutes of those meetings?

A. Yes, sir.

Q. Who has custody of the minutes of the safety meetings?

A. The foreman makes out the report and sends one to the safety department and I keep one myself.

Q. That is, you have a copy of the minutes of these various safety meetings?

A. Yes, sir.

Q. The minutes are taken by whom, did you say?

A. By the foreman in whose place I would go in and speak for, in that meeting.

Q. If you spoke about Employees Representation Plan at any of those meetings, those minutes would reflect what you said, is that correct?

A. I would not be sure, to say that they would. Not all of them.

Q. What is that?

A. I would not say that they would.

Q. You mean there might be some meetings at which

you spoke about Employees Representation Plan and they are not reflected in the minutes?

A. That is right.

Q. No minutes were taken of what you said about Employee Representation Plan?

A. I don't think so.

Q. Well, do you know whether or not minutes were taken at any of these meetings about what you said about Employees Representation Plan?

A. I don't think so.

Q. In other words, you spoke at a safety meeting about Employees Representation Plan?

A. Yes, sir.

Q. And told about its virtues?

A. Yes, sir.

Q. And yet it does not appear in the minutes that were taken of the safety meetings?

A. That is right.

Q. And if you spoke against the C. I. O., that is also not in the minutes, is that correct?

A. That is right.

Q. Now, you characterize Mr. Wright as a fair chipper, is that correct?

A. That is correct.

Q. And Sabri Shaban as a good worker?

A. I would say a good worker.

Q. And Ugranovich is a fair worker and not slow?

A. That is right.

Q. What was the first date that you made a check of your list for the purpose of the lay-off sometime in April?

A. The first time?

Q. That is right.

A. I would say about between the 18th and the 20th of April, along in there.

Q. Did you decide at that time how many men you were going to lay off?

A. No, sir, we didn't know until we looked the list over.

Q. That is what I am asking you.

A. Yes, sir.

Q. When you looked the list over,—when did you look the list over, about the 18th or the 20th of the month?

A. About the 20th, along in there.

Q. How many men did you decide to lay off?

A. We decided to lay off about 45 men.

Q. On April 27th how many men did you lay off?

A. On that certain date?

Q. That is right.

A. I can't tell you, on that certain date.

Q. Well, if the record should show that you said you laid off about 20 to 25 men, would that statement be correct, on April 27?

A. I wouldn't want to say that because it took four or five days to lay the men off.

MR. LAUTER: Read the question.

(The question was read.)

MR. DAY: You mean he said it in direct examination?

MR. LAUTER: That is my impression.

A. I would say about that time.

Q. That is, about April 27th you laid off about 20 to 25 men, is that correct?

A. Yes, sir. Well, it was 37 men altogether.

Q. What is that?

A. There was 37 men altogether.

Q. On April 27th?

A. Laid off—there was 37 men laid off.

Q. On April 27th, is that statement correct, that there were 20 to 25 men laid off by that date.

A. That should be corrected to 37 men, that is what I—

Q. Did you hear my question? I am asking you if,

upon direct examination, you said that on April 27th, 20 to 25 men were laid off? Was that statement correct?

A. No, sir.

MR. DAY: You mean were, or had been?

MR. LAUTER: Had been by that date.

Q. (By Mr. Lauter) That statement is not correct?

A. Well, I would say which had been, yes.

Q. Laid off?

A. Yes, sir.

Q. About 20 to 25 men?

A. I would say.

Q. And that is the total number, is that correct?

A. Yes, sir.

Q. Now, you said that Will Wright was No. 34 on the list, is that correct?

A. That is right.

Q. If that appears in direct examination?

A. 34 is right.

Q. Do you know what date Will Wright was laid off?

A. He was laid off on the 27th of April.

Q. Now, Ugranovich was not laid off, he was discharged, is that correct

A. He was laid off indefinitely, yes, sir.

Q. Well, it is a discharge, is that right?

A. Yes, that is right.

Q. Well, you know the difference between a lay-off and a discharge, don't you?

A. Yes, sir.

Q. And Ugranovich was discharged?

A. Yes, sir.

Q. Is that right?

A. That is right.

Q. You took his badge from him, didn't you, personally?

A. Yes, sir.

Q. Now, you don't know personally that he was drunk, as you have testified on a certain date?

A. That is right, I do not.

Q. What was the day he was discharged, do you know?

A. He was discharged February 8th, of this year.

Q. And you didn't smell liquor on his breath?

A. No, sir.

Q. But you were told by the turn foreman?

A. Yes, sir.

Q. General foreman and the inspector, is that right?

A. Turn foreman, his grinder boss, the turn foreman and inspector, yes, sir.

Q. How many men told you that they smelled liquor on his breath?

A. How many men told me?

Q. That is right? That is, in a supervisory capacity?

A. I would say two of them.

Q. And what are their positions?

A. The turn foreman and grinder boss.

Q. Subsequently Ugranovich spoke to you and told you that he was not intoxicated, is that correct?

A. He did, that morning.

Q. You tell me what kind of a hearing you gave him on that subject.

A. I told him why he was laid off, that he was intoxicated.

Q. What else did you do?

A. That is about all I told him.

Q. Did you call in either the turn foreman or the boss inspector?

A. Yes, sir.

Q. To confront Ugranovich with those men?

A. No, sir, I did not.

Q. Well, the extent of the hearing which you gave

Ugranovich was to tell him that he was drunk, is that correct?

A. Yes, sir, and he was laid off.

Q. Or discharged?

A. Or discharged.

Q. That is the extent of the hearing, is that correct?

A. Yes, sir.

Q. Do you generally give that kind of a hearing when you discharge men?

A. Yes, sir.

Q. Now, you testified about Sammy Stokes bringing in a group of men to see you?

A. That is right.

Q. And if I am correct—And you can correct me if I am not—you said they should have taken it up with the representatives?

A. Yes, sir.

Q. The group should not have come in, is that correct?

A. That is right.

Q. Well, were grievances always handled by the representatives?

A. Yes, sir.

Q. Is that the only meeting that they handle grievances in the plant?

A. Yes, sir.

Q. Do you mean that groups don't have a right to come to your office to speak to you about grievances?

A. They have the right if they want to come, but I still do not think it is right.

Q. You do not think it is right?

A. No, sir, not when they have representatives, representing them, that they voted for.

Q. Did you tell him that someone else was telling him things?

A. Yes, sir, I told him after this meeting. I called him into the office and had a talk with Sam.

Q. And you criticized him for the action he had taken because someone else was telling him things, is that correct?

A. That is right, I tried to advise him, was what I was trying to do, trying to advise him.

Q. That it was wrong for him to act because someone else was telling him things, is that right?

A. That is right, and bringing in a group of men like he did.

Q. And if the C. I. O. was telling him to do things, that was wrong?

A. I didn't know whether the C. I. O. told him at all. I don't know that. I know there was other men told him. I don't know nothing about the C. I. O., whether they belonged to C. I. O. or not, I couldn't tell you that. It wasn't C. I. O.—

Q. What is that?

A. It wasn't C. I. O. as far as I know, I don't know anything about that.

Q. You don't know whether it was or wasn't, is that right?

A. That is right.

Q. You are not testifying now that it was not the C. I. O. told him, are you?

A. As far as I know, I don't know.

Q. Had Ugranovich ever been drunk before?

A. Not to my knowledge, but I know that one of the foremen had smelled alcohol on his breath before that time that he was laid off.

Q. Who was that?

A. Eugene George.

Q. Is that the same foreman?

A. His foreman, yes, sir.

Q. And did he complain to you at that time that he smelled liquor on his breath?

A. No, sir.

Q. When did you find that out?

A. I found that out when I laid him off.

Q. How long before you laid him off?

A. That morning.

Q. That he had smelled liquor on his breath before?

A. That they had smelled it on his breath before and warned him.

Q. And the turn foreman had not reported that to you?

A. No, sir.

Q. How many times did they smell liquor on his breath?

A. They tell me about two or three times.

Q. Prior to the time that you discharged him?

A. Yes, sir.

Q. And they didn't report it to you?

A. That is right.

Q. Is it customary for the men who work under you to report to you the fact that they smelled liquor on the employee's breath?

A. All depends on how bad it was.

Q. Oh, there are measurements, now?

A. Yes, sir.

Q. What are the standards? You tell me what the standards are?

A. Well, if a man came in there, I would say in wobbly condition—

Q. Not what you would say—

MR. DAY: Well, you asked him what the standards were.

MR. LAUTER: I am asking what the standards are, not what he would say.

MR. DAY: He is trying to tell you. I submit he is trying to tell you.

Q. (By Mr. Lauter) Go ahead.

MR. LAUTER: Read the question, please.

(The last question was read by the Reporter.)

A. Well, if—I would say that the standard is, if I just smelled it on a man's breath but there was nothing wrong with him, it is o. k., I would say let him work.

Q. And that was the prevailing custom in the plant, in your department?

A. Yes, sir.

Q. That a man could drink and have liquor on his breath and you would not fire him?

A. If the man just smelled it on him, there was nothing else wrong with him, I should say he should be reprimanded and told not to come in that way again. I would not want to lay a man off the first time for that kind—

Q. Or the second or third or fourth? Is that right?

A. I would say—yes. I would say if he goes too far he should be—he should be reprimanded, I would say about the second or third time, after he was told, he should be laid off, temporary lay-off. If he wasn't wobbling in any way, but if he comes in after that and be drunk, I would say he should be laid off indefinitely.

Q. Now, when you—when Ugranovich came in was he wobbly, this last time he was discharged?

A. The foreman says he was.

Q. The foreman said that he was wobbly?

A. Yes, sir.

Q. Is that what you are testifying now?

A. That is right.

Q. Which foreman said that?

A. Mr. Eichelberger.

Q. Said he was wobbly?

A. Yes, sir.

Q. Did the other foreman also? Did the boss inspector say he was wobbly?

A. I didn't speak to the boss inspector.

Q. The boss chipper, the other person who told you that he smelled liquor?

A. No, he did not tell me that.

Q. Now, let's get this straight: There was a turn foreman who spoke to you, is that correct?

A. That is right.

Q. And told you that he smelled liquor and that he was wobbly?

A. That is right.

Q. Was there another man who came and told you? What was his position?

A. He didn't come and tell me directly. He told the turn foreman. That was his direct foreman, the grinder boss.

Q. Are you now testifying that only one man came and told you about the fact that Ugranovich—that they smelled liquor on Ugranovich's breath?

A. That is right, the turn foreman.

Q. And he is the only one who told you that he smelled liquor on his breath, in a supervisory capacity?

A. No, the direct foreman smelled it on his breath before that time. He had told me that, that morning.

Q. Well, I will ask you once again. How many men told you personally that there was — that they smelled liquor on Ugranovich's breath? Now, tell me what the names of the persons were.

A. That morning?

Q. Yes.

A. Charles Rikelberger.

Q. What is his position?

A. Turn foreman.

Q. Now, who else?

A. That is all. They told me that they smelled it on his breath. That—

Q. He is the only person who told you before you discharged Mr. Ugranovich—

A. Yes.

Q. —that he smelled liquor on his breath, is that right?

A. Yes.

MR. LAUTER: At this time it is 12 o'clock and I would like to ask the Trial Examiner to recess for lunch so that I can check with the Reporter the direct testimony of this witness.

TRIAL EXAMINER LINDSAY: We will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 o'clock p. m.)

(After recess.)

(Whereupon, the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

EDWARD HOPKINS

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

(The direct testimony of the witness was read by the Reporter.)

Cross Examination (Continued)

Q. (By Mr. Lauter) Is that statement correct?

A. I would say that the—

Q. I am asking you if that statement is correct.

A. No, sir, that is not; I would like to correct that.

Q. Did you know that was incorrect when you gave it?

A. No, I didn't.

Q. Was there any other testimony in your direct examination in answer to Mr. Day's questions that you now want to change?

A. That is all I know of.

Q. How do want to correct it now?

A. I would say that the turn foreman told me that he was intoxicated.

Q. The turn foreman told you that he was intoxicated; that Ugranovich was intoxicated?

A. Yes, sir.

Q. I want you to state for the record at this time everything that the turn foreman told you.

A. He told me that the man was intoxicated and he also told me that he would recommend that he would be laid off.

Q. When did he tell you that he was intoxicated?

A. That morning at 8 o'clock; about 8 o'clock.

Q. That is the same morning you discharged Ugranovich?

A. The same morning.

Q. The same morning you discharged him?

A. Yes, sir.

Q. Did you testify about a talk with Ugranovich after his discharge; at the time of his discharge?

A. Just at the time he was discharged.

Q. Did the turn foreman send him home, do you know?

A. Yes, sir.

Q. Now, when did the turn foreman send him home?

A. Shortly after midnight.

Q. Shortly after midnight?

A. Of the 8th, yes, sir.

Q. Of what date?

A. Of the 8th.

Q. When did you speak to Ugranovich?

A. About 9 o'clock that morning—that same morning.

Q. What turn was he working on then?

A. 12 to 8.

Q. 12 to 8?

A. 8 a. m., yes, sir; that was the turn. He was supposed to work but he didn't work.

Q. And you told me or stated in the record everything that the turn foreman told you, is that correct?

A. That is right, other than—that is what the turn foreman told me, yes, sir.

Q. What time did you see the turn foreman did you say?

A. Shortly after 8 o'clock, I would say; 5 after 8. Along after 8.

Q. Did he tell you—

A. Quitting time.

Q. About what time did you speak to Ugranovich?

A. About 9 o'clock.

Q. About 9 o'clock?

A. He came out and got his time.

Q. Did you tell Ugranovich that the foreman had told you that he was intoxicated to the effect—namely that Ugranovich was intoxicated?

A. I couldn't say whether I told him whether it was the foreman that told me. I told him he was intoxicated.

Q. You told him he was intoxicated?

A. Yes.

Q. That he was intoxicated?

A. Yes.

Q. But you don't know whether or not you told him that the turn foreman had told you that?

A. I told him it was reported to me that he was intoxicated.

Q. Did you tell him who reported it to you?

A. I couldn't say; I would not want to say.

Q. Now, state everything that you told Ugranovich at that time.

A. That is all I told him; that he was—

Q. That he was intoxicated?

A. That I was laying him off because he was intoxicated. It had been reported to me that way.

Q. Now, you have stated in the record the entire conversation between you and the foreman, between yourself and Ugranovich with reference to his discharge, is that correct?

A. That is right.

Q. Did the turn foreman tell you that Ugranovich was wobbly?

A. Yes, sir. I asked him how bad he was.

Q. Now then, you haven't stated the whole conversation that the turn foreman told you?

A. No; not word for word.

Q. Now I am asking you again. State for the record the full conversation that you had with the turn foreman. Everything he said and everything you said.

A. Well, I would add that I had asked him how bad he was.

Q. Are you adding this on or is this something the turn foreman told you at that time?

A. He told me that morning that he was wobbly; that he was intoxicated and I might say I asked him how bad he was, and he told me he was wobbly.

Q. Now, again, I am asking you whether or not you have stated for the record the full conversation you had with Ugranovich at 9 o'clock?

A. Yes, sir.

Q. Then you didn't tell Ugranovich that he was

wobbly; you didn't tell him that the foreman had told you that?

A. No, I didn't; I told him he was intoxicated.

Q. Now, the reason that you discharged Ugranovich was because he was wobbly, is that correct?

A. And he was intoxicated.

Q. Now, you testified before that the fact that someone smells liquor on the breath does not mean that he gets discharged, did you?

A. If he is able to work in the steel mill?

Q. That is right.

A. I wouldn't say discharged. I wouldn't discharge a man for the first time for that.

Q. But if a man were wobbly you would discharge him, is that correct?

A. No, I would send him home for his first offense if he was wobbly.

Q. You would send him home?

A. Yes, sir. If you have never seen anything else on him before that I would reprimand him for two or three days.

Q. Now, if you smelled liquor on his breath a couple of times and he was wobbly, would you discharge him?

A. No, I would reprimand him for smelling it on his breath.

Q. Why did you discharge Ugranovich?

A. Because he was intoxicated.

Q. Because he was wobbly, is that correct?

A. Yes.

Q. But you didn't say that to Ugranovich, did you?

A. No, sir.

Q. You didn't tell him the reason for his discharge?

A. He was intoxicated.

Q. That is the only reason you gave him, is that right?

A. That is right.

Q. You said the reason why you discharged him was because he was wobbly, isn't that correct?

A. I discharged him because he was intoxicated.

Q. Well, let us go all through this question, Mr. Witness. You stated of Ugranovich that he was discharged because he was intoxicated, is that correct?

A. That is right.

Q. And you have stated in the record the fact that you smell liquor on the breath of a man employee does not mean that you would discharge him, is that correct?

A. That is right, the first time. And he wasn't intoxicated.

Q. Even if he was wobbly, the first time you would not discharge him for that?

A. I would reprimand him.

Q. And if you smell liquor on his breath several times, and you found him wobbly again, you might reprimand him or discharge him for that, is that right?

A. That is right.

Q. And when you discharge such a person, would you tell him why you were discharging him?

A. I would. I would tell him.

Q. You would tell him that he was intoxicated and wobbly?

A. I might say—add to it that he was wobbly, that is intoxicated, means he was drunk. Means—

Q. You didn't say to him that was wobbly, is that correct?

A. No, sir, that is right. I didn't state it.

Q. So that he had no opportunity to say to you that he wasn't wobbly, is that correct?

A. That is right.

Q. All that he could say was that he wasn't intoxicated, which is what he said?

A. That is right.

Q. And you never confronted him with the turn foreman who had told you that he was wobbly, is that correct?

A. That is right.

Q. Now, you have changed your testimony in certain respects, is that correct?

A. That is right.

Q. You have testified about the grinder boss? Now, he is not the turn foreman, is that correct?

A. He is not the turn foreman.

Q. You testified about an inspector?

A. That is right.

Q. And he is not the turn foreman?

A. That is right.

Q. Did both of those men tell you about the fact—what did they tell you? Withdraw that. What did they tell you about Ugranovich's condition on the 8th, the day that you discharged him?

A. I don't know whether they told me anything on the 8th.

Q. Did they tell you anything on the 9th?

A. I don't know just when they told me, but I do know that they—

Q. Did they tell you on the 9th? If you know, say that they did, or if you don't know, say you don't.

A. I don't know.

Q. So that on the 8th or 9th as far as you can recall neither the grinder boss nor the inspector told you anything about Ugranovich's condition on the 8th, is that correct?

A. That is right.

Q. Did either of those men tell you that he was intoxicated at any time subsequent to the 8th?

A. Before that time?

Q. At any time subsequent to the 8th? The day he was discharged?

MR. DAY: He means after the 8th.

Q. After the 8th?

A. After the 8th? Oh, not after that.

Q. They never told you—

A. No, the turn foreman told me on the 8th.

Q. —that he was intoxicated—what is that?

A. The turn foreman told me on the 8th.

Q. He is the only one told you about Ugranovich's condition on that day?

A. On that day.

Q. Now, if the record should show that you said that if a man has liquor on his breath twice and is wobbly the third time you would discharge him—you wouldn't discharge him but you would reprimand him, is that statement correct?

A. Read that, please.

Q. (The last question was read by the Reporter.)

A. I would not. Yes, sir, that is correct.

Q. How many times before had you been told that Ugranovich had liquor on his breath?

A. About two or three times.

Q. And who told you that?

A. His grinder boss. That is, his direct foreman.

Q. And had you been told that, before the 8th, the day you discharged him?

A. Yes, I would say yes, before that time.

Q. And did you ever speak to Ugranovich and tell him that you had been told that?

A. No, sir.

Q. Did you instruct the turn foreman to speak to him and tell him, that is, tell Ugranovich that he had smelled liquor on his breath?

A. No, sir.

Q. Did you lay off Will Wright sometime in 1935?

A. Yes, sir, he was laid off in 1935.

Q. Did you lay him off?

A. Yes, sir.

Q. And is it your understanding of the company policy that if you lay off a man and he is absent from employment for 30 days that he loses seniority rights?

A. Other than if he is sick or in an accident of some kind.

Q. If you laid off a man tomorrow in your department and took him back home and a month later he would lose his seniority right, is that correct?

A. If there was work there for him, yes, sir.

Q. If there was work there for him?

A. Yes. If there was work there for him he would lose his rights, if there was work for him and he didn't come back, and he just automatically quits, himself.

Q. I see what you mean. You mean at the end of the month?

A. Yes.

Q. If he didn't come back?

A. He automatically quits himself.

Q. Supposing he came back?

A. It would be all right.

Q. Would he lose his seniority rights?

A. No, sir.

Q. If you laid him off for 30 days?

A. He would not.

Q. Well, you laid off Will Wright, didn't you?

A. I laid off Will Wright, yes, sir.

Q. And he lost his seniority rights when he came back?

A. Yes, sir.

Q. Did he lose his seniority rights?

A. Yes, I think he did lose his rights.

Q. Well, you don't know, is that right?

A. That is right.

Q. You don't know?

A. That is right.

Q. Now, when you came to lay off the men in 1937—

A. Yes, sir.

Q. You didn't know then whether Will Wright had lost his seniority rights either, did you?

A. Sure I knew, yes.

Q. Are you saying now that you knew then on April 27th that he had lost his seniority rights?

A. Yes, sir.

Q. But that you don't know it now today?

A. According to the records he lost his seniority rights.

MR. LAUTER: Read back about four or five questions and answers of this witness.

(Record read by the Reporter.)

Q. (By Mr. Lauter) Is that answer correct, that you don't know whether or not he lost his seniority rights?

A. I would say it is not correct.

Q. You would say that the answers which you just gave there is not correct, and you want to change that, is that correct?

A. I would like to change it.

Q. Now, what do you want to change it to?

A. That he lost his rights, seniority rights.

Q. Now, do you recall the hypothetical case I gave you of a man being laid off by you today, for 30 days, for a month and then be taken back to work? Do you remember that case that I gave you? I asked you a question about it.

A. Do you mean Will Wright?

MR. LAUTER: Read the question.

(The last question was read.)

Q. (By Mr. Lauter) Do you understand my question?

A. No, I do not.

Q. I will try to make it simple for you. I asked you

a short time ago whether or not, if you laid a man off today—

A. Yes, sir.

Q. For a month, and then took him back yourself, whether or not he would lose all of the seniority rights he ever had?

A. If a man came back within 30 days. 30 days.

Q. No, more than 30 days? You laid him off for more than 30 days?

A. He would lose his rights.

Q. He would lose all his rights, is that correct?

A. Yes.

Q. So that you could go down to the plant today and lay off a man more than a month and wipe out all his seniority rights, is that what you are saying? Is that what you have answered? Is that right?

A. Repeat that question.

MR. LAUTER: Read the question.

(The last question was read.)

A. If he didn't show up.

Q. What is that?

A. If he didn't show up at all, he would.

Q. No, that is not the question I am asking you.

MR. LAUTER: Please, Mr. Examiner, this witness here has testified and stated what the company policy is.

TRIAL EXAMINER LINDSAY: May I put the question?

MR. DAY: Yes.

TRIAL EXAMINER LINDSAY: Well—

MR. LAUTER: I will withdraw any remarks.

TRIAL EXAMINER LINDSAY: Now go ahead.

MR. LAUTER: It is o. k.

MR. DAY: Listen to the Examiner.

TRIAL EXAMINER LINDSAY: Yes. There is

no reason at all for hedging or fencing on this question, regardless of who it hurts.

THE WITNESS: That is right.

TRIAL EXAMINER LINDSAY: Or the result of it. You have gone up here to tell exactly what the truth is. Now, if it hurts the Board's case that is perfectly all right; if it hurts the Republic Steel's case it is also perfectly all right. Now, is that understood?

THE WITNESS: That's right. That is understood.

TRIAL EXAMINER LINDSAY: Now read the last question.

(Question read by the Reporter as follows:

"Q. So that you could go down to the plant today and lay off a man more than a month and wipe out all his seniority rights, is that what you are saying?")

TRIAL EXAMINER LINDSAY: There is no reason for anyone coming up here on this witness stand and trying to give anything but the exact truth. Now, I am not saying that this man is—

THE WITNESS: I am trying to tell the truth. That is what I am trying to tell.

TRIAL EXAMINER LINDSAY: Read the question.

(The same question was read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, that is a simple question and you have employed men for a long time and you know the answer.

A. I could not.

MR. DAY: What is the answer?

(The answer read by the Reporter.)

Q. (By Mr. Lauter) What would happen to some man who laid off more than 30 days? Would he lose his seniority?

A. Not if he tried to come back within that time.

Q. Not within that time, that is more than a month, if you laid off a man for more than 30 days, he would not lose his seniority, is that what you are saying?

A. He would not lose his seniority.

Q. Do you know when Mr. Wright first came to work at Republic?

A. In 1922. According to the records. I didn't know him at that time. The records—

Q. Did you consult the records on or before April 27th, to find out how long he had worked for Republic?

A. No, sir, I happened to look at the records.

Q. What is that?

A. I looked at the records.

MR. LAUTER: Read the last question.

(Question was read by the Reporter.)

A. I did.

Q. Well, when—what did you find out as result of your consultation of the records, as to how long Will Wright had worked for Republic?

A. He doesn't have a very good record before that time?

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: The answer may go out.

MR. KETTERER: I will consent, that may go out.

Q. (By Mr. Lauter) With respect to the length of time he worked for Republic, what did you discover on and before April 27th?

A. I first noticed that he was laid off in '25.

TRIAL EXAMINER LINDSAY: That is not an answer to the question.

MR. LAUTER: I move the answer be stricken. Read the question.

TRIAL EXAMINER LINDSAY: The answer is stricken. Read the last question, Mr. Reporter.

(Last question read.)

MR. DAY: Now, with respect to what?

TRIAL EXAMINER LINDSAY: The time, that is in there.

MR. DAY: When he started to work, do you mean?

TRIAL EXAMINER LINDSAY: How?

MR. LAUTER: I will withdraw that question.

MR. DAY: Yes.

Q. (By Mr. Lauter) On or before April 27th—

A. Yes, sir.

Q. —did you look at Will Wright's employment record?

A. Yes, sir.

Q. Did you look to see on that record when he began working?

A. Yes, sir.

Q. I am not asking you what you looked on since April 27th, today or any day preceding today. I am asking you whether on April 27th you looked at his record to see how long he had been employed by Republic?

A. On that day?

Q. That is right.

A. All right, on that day. I looked before that.

Q. How long before did you look?

A. Oh, I would say about four or five days before that.

Q. You looked at his record and you saw when he began work, working there, is that correct?

A. Yes, sir.

Q. And what did you find out with respect to how long—Withdraw that—What did you find out by consulting the records as to when he began working for Republic?

A. Well, I found out the day that he started.

Q. What date was that?

A. I don't know, in 1922.

MR. LAUTER: That is all.
MR. DAY: That is all. I want to call Mr. Ess.
(Witness excused.)

T. J. ESS

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name please?
A. T. J. Ess.
Q. Where do you live, Mr. Ess?
A. Massillon. 739 Medilla Avenue.
Q. You live at Massillon?
A. Yes.
Q. That is M-e-d-i-l-l-a?
A. That is right.
Q. Where do you work?
A. Republic Steel at Massillon.
Q. You work in Massillon?
A. That is right.
Q. Where do you work, Mr. Ess?
A. Republic Steel in Massillon.
Q. In what capacity?
A. Combustion engineer.
Q. How long have you worked for Republic?
A. 1923.
Q. And did you work for Republic since 1923—when I say Republic there—
A. That was in that time.
Q. The different companies of the Republic Steel.
A. Central Steel, Central Alloy and so forth.
Q. Did you work in that Massillon rolling mill?
A. No, it was the Central Steel.

Q. And you are combustion engineer, is that right?

A. Yes, sir.

Q. As a combustion engineer, what do you have to do with any part of the machinery at the Massillon plant?

A. Well, we supervise the fuel, the power, and the utility usage and distribution. That is a rough idea.

Q. Were you in the Massillon plant on the evening of May 20th last?

A. I was.

Q. What happened there under your supervision or through your observation?

A. There was trouble experienced with the main turbo-generator unit which generates power for the plant of the Massillon department.

Q. What is the turbo-generator unit?

A. That is an electrical generator which makes power—generates power for the use of the mills in the Massillon plant.

Q. How many of the mills are connected up with the generator relative to this turbo-generator, I am asking you about?

A. The entire plant is connected to that.

Q. The entire generator plant?

A. And in addition to the power system of the Ohio Public Service Company.

Q. Then did you get a call that night that there was trouble with the turbo-generator unit?

A. Yes, sir.

Q. Where were you then?

A. I had been at Canton and the call was waiting at the house when I came back.

Q. What did you do?

A. I immediately went out to the power house.

Q. What did you discover with relation to the turbo-generator?

A. Well, we got down to the power house and the ma-

chine was vibrating very badly; it looked as though it had thrown a blade or shrouding from the turbine rotary.

Q. Now, after you found that that unit had something wrong with it, did you also make a further investigation to see what was the situation?

A. Well, it was immediately apparent that it was a very dangerous condition which we could not leave to continue very long.

Q. Then what was done with the turbo-generator?

A. Well, we had a little consultation on the power distribution end of it and agreed that it was necessary to shut down certain units of the plant.

Q. Now, what units of the plant were then and there shut down, if any?

A. The sheet mills, the 12 and 18-inch mill, and the hot strip mill.

Q. Well now, what did that leave open unaffected by this operation or cessation?

A. Well, of course the blooming mill was running, the open hearth, and some of the minor auxiliaries departments.

Q. About what time was the turbine shut down?

A. 10:45 p. m.

Q. How long was it down?

A. About three days; it came back on the line on the 23rd.

Q. Then did it start up again?

A. Yes.

Q. Well now, while the turbine generator was being repaired, were those plants down?

A. Those plants were down.

Q. Then you say they started up again?

A. Yes.

MR. DAY: I believe that is all.

Cross Examination

Q. (By Mr. Lauter) What is your position, Mr. Ess?

A. Combustion engineer.
Q. How long have you worked for Republic?
A. Since—for—
Q. Or its predecessors?
A. Since '23.
Q. The trouble you are referring to took place on May 20th?
A. May 20th.
Q. And you were shut down to May 23rd, is that correct?
A. That is right.
Q. Where do you live in Massillon?
A. 739 Medilla Avenue.
Q. How far is that from the plant?
A. About three miles.
Q. How long did it take you to get to the plant?
A. Depends on how—
Q. Your average time?
A. It can be 10 minutes.
Q. 10 minutes?
A. Yes, sir.
Q. How long did it take you to get down to the plant on May 20th?
A. Maybe 8.
Q. Maybe 8?
A. Yes, sir.
Q. What time were you called?
A. The call was waiting when I got back from Canton; it was just previous to 7 o'clock; I wouldn't know exactly.
Q. You were called before 7?
A. That is right.
Q. It took you about 8 minutes to get down there?
A. That is right.
Q. When did you leave your home?
A. I don't know exactly the time.

Q. About 7 o'clock?
A. I suppose.
Q. Or a little before?
A. I don't know.
Q. Or a little after?
A. I don't know.
Q. Well now, let us see if you can't remember. Was it an hour or was it an hour after 7?
A. No, it was close to 7.
Q. Close to 7?
A. Yes.
Q. You remember that?
A. Yes.
Q. The shut-down was at 10:45, right?
A. About.
Q. What time did you get to the plant?
A. I would say 10 minutes after 7.
Q. 7:10?
A. Yes.
Q. Now, was the turbine generator the cause of the trouble?
A. The turbine of the turbo-generator unit.
Q. Had that turbine been installed about 5 years before that, if you know?
A. No, that turbine was installed in 1926.
Q. In 1926?
A. Yes, sir.
Q. Eleven years before?
A. Yes.
Q. That particular turbine you are referring to?
A. Yes.
Q. Had that broken down at least twice before?
A. I have hearsay that it was. I heard at the previous break-down that there was a similar break-down when I was off ill.
Q. You were off ill?

A. That is right.

Q. Do you remember when that was?

A. No, not other than it was in the summer of 1936.

Q. The plant didn't shut down then, did it?

A. I really don't know.

Q. Now, you heard hearsay about whether the plant shut down?

A. No, I didn't.

MR. DAY: May I object to hearsay?

MR. LAUTER: That is the witness' phraseology, if it please, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Just a minute. Objection overruled.

MR. DAY: Exception.

TRIAL EXAMINER LINDSAY: Proceed.

MR. DAY: All right.

MR. LAUTER: Read the question.

(The last question was read.)

A. I didn't.

Q. You don't know whether or not—

A. I didn't know what units were shut down.

Q. Do you know whether any were shut down on the previous break-down?

A. I don't.

Q. Are you testifying that you don't know whether any were shut down?

A. I don't know whether any or there were none.

Q. When did this happen?

A. In 1936. I don't remember the month.

Q. How long were you out ill?

A. 13 months.

Q. When did you hear that there had been a break-down of that same unit before?

A. In the summer of '36 while I was ill.

Q. And you didn't hear anything about whether or

not the plant had been shut down on account of that break-down?

A. No.

Q. When was the first break-down prior to that?

A. You mean of this same nature?

Q. That is right.

A. I really don't know. As I say, this happened some time—it was in 1936.

Q. I am talking about another break-down of this same unit.

A. That is right. That is when it happened.

Q. This other one broke down in the same year, 1936?

A. Yes, sir.

Q. Another one of the same year?

A. That is the one.

Q. Of the same nature?

A. That is right.

Q. When was it?

A. On the 28th of May.

Q. I am not discussing the one on the 28th of May. Isn't it true that there were two previous break-downs?

A. I think there were in the summer of '36, two.

Q. There were two?

A. Yes.

Q. You don't know whether or not on the other break-down there was a break-down in the plant, in the summer of 1936?

A. I don't know.

Q. You don't know that they switched to the Ohio Power Service?

A. It would be necessary to switch to the Ohio Power Service any time that that unit would be down.

Q. Are you stating that you don't know that they switched to the Ohio Power Service in the break-down in the summer of 1936?

A. I don't know.

Q. Was there a provision for switching for that service?

A. Yes.

Q. There was a regular understanding between the Ohio Power Service and the Republic Steel Corporation?

A. There is a connection.

Q. So that whenever there is a break-down of this unit they can switch to the Ohio?

A. Yes, sir; with a demand charge involved.

Q. With a charge?

A. That is right.

Q. That is a simple operation of throwing a switch, isn't it?

A. Yes; you don't even have to throw it.

Q. You don't even have to throw a switch?

A. That is right.

Q. Now, what were the departments affected by the shutting down again?

A. The sheet mill, the 12 and 18-inch mill, and the hot strip.

Q. What are included in that, the ones you have mentioned?

A. Yes, sir.

Q. What are excluded, if any? What mills were not shut down?

A. The blooming was the only mill of any consequence that kept on.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Day) I don't understand this arrangement that the Republic Steel had with this Power Company. I want to ask you this question. Was it a matter of expense to have used the power from the Power Company instead of shutting down the mill?

A. Absolutely.

Q. Have you any idea how much?

A. You mean what it would have cost us?

Q. What I mean is this. Something has been said about your having a tie-up with the Power Company by which power could be thrown on by turning on a switch?

A. Yes, sir.

Q. You say there would have been some expense to Republic if that had not been done?

MR. LAUTER: That is not the testimony.

MR. DAY: Read my question.

(The last question was read.)

Q. State whether or not—

MR. LAUTER: May I enter an objection? I want to object to that question. My objection is that unless this witness has personal knowledge with respect to the subject matter of that question—

(Discussion off the record.)

MR. LAUTER: Read that question once more, Mr. Reporter.

(The last question was read.)

MR. DAY: I will withdraw the question.

MR. LAUTER: If that is the case, then I will withdraw the objection.

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

JAMES G. DAVEY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. James G. Davey.

Q. Where do you live, Mr. Davey?

A. 1615 Harvard Avenue, N. W., Canton.

Q. By whom are you employed at the present time?

A. Republic Steel Corporation.

Q. And in what capacity?

A. First Divisional Superintendent of the Stainless Divisions.

Q. I believe you are a brother of Mr. Sam Davey who testified here this morning?

A. That is right.

Q. How long have you been with the Republic Steel Corporation?

A. Since the 1st of last July, 1936.

Q. Have you during that period of time been with the Republic Steel Corporation?

A. No, sir, I was formerly with the Canton Tin Plate Division.

Q. When was it that you were transferred from the Canton Tin Plate Division to the Stainless Division?

A. On October 15, 1936.

Q. On what date?

A. October 15, 1936.

Q. And you have been in the Stainless Steel Division ever since?

A. Since that time, yes, sir.

Q. Now, in what plants is the Stainless Steel Division of the Republic Steel located? In Canton or in Massillon?

A. In Canton and Massillon. One division is in Canton and some units of the Stainless Steel Division are in Massillon. There is one unit in Canton which we term the South Division but there are three units in Massillon where the finishing off work is done.

Q. Now I believe there has been testified here that the Canton Tin Plate Division was started in Republic Steel Corporation at the time of the sale of your plant to

Republic on July 1st, 1936.

MR. LAUTER: I don't think that is the testimony.

THE WITNESS: I don't believe that question is clear.

TRIAL EXAMINER LINDSAY: I don't believe the testimony shows that just the way you have it.

THE WITNESS: Will you state that question again?

MR. KETTERER: I will withdraw that question.

Q. When was it then that you and your brothers who owned the Canton Tin Plate Company sold that plant to the Republic Steel Corporation?

A. July 1st, 1936.

MR. LAUTER: That is correct.

MR. KETTERER: Yes.

TRIAL EXAMINER LINDSAY: Yes, but that is not your question.

MR. KETTERER: All right.

Q. Prior to July 1st, 1936, did you have anything to do with the operation of the Canton Tin Plate Company?

A. Yes, sir, I was the operating superintendent of that company at that time.

Q. Now, during that time that you were the operating superintendent of the Canton Tin Plate Company and later, while you were with the Republic Steel Corporation, and at that plant, did you ever know a man by the name of Kenneth Poorman?

A. Yes, sir.

Q. Do you recall when he was employed by the Canton Tin Plate Corporation?

A. No, I could not but I would imagine that would be around '31, I think. I would not want to swear to that as being the truth because I don't know.

But he had been for a period, I would say, of approximately five and one-half years that I know of.

Q. (By Mr. Ketterer) Now, did he continue to work at the tin plate division of the Republic Steel Corporation after July 1st, 1936?

A. Yes, sir. He was there when I left that division.

Q. In October of 1936?

A. Yes, sir.

Q. Now, do you recall, Mr. Davey, of any meeting of any employees of the Canton Tin Plate Division of the Republic Steel Corporation, sometime after the 1st of July, 1936, at which you talked to the men?

A. I do.

Q. Now, will you tell us what the purpose of that meeting was?

A. Yes, sir. To explain to them the new group insurance which was being sold or attempting to be sold to the employees by the Republic Steel Corporation, the real purpose of having that group together was to specifically let them know that there was no one in that group or plant who was being forced to purchase any of the insurance. The only thing in relationship to that, that I said to those men, was that I thought it was a good thing at any time to purchase good cheap insurance in a safe company. That was the purpose of calling the men together, to discuss that with them.

Q. Was there more than one meeting of that kind?

A. If I recall properly too, I think I attempted to cover the entire plant by having first the one day turn, that is the first turn in the morning, when they finished in the afternoon, and then the afternoon turn or midnight turn which we term the 12:00 to 8:00 turn, is the midnight turn, try to come out to the plant approximately 8 o'clock, so as to catch both of those. There is one comes on and one was coming out. One was going home and one was coming in. Now at that time, in addition to the morning meeting, at that time did I describe to them regarding the group insurance plan.

Q. Now, was there anything else said by you that you can recall now, at those meetings of those employees, called for that purpose of explaining the group insurance plan?

A. Yes. It is this way, that in all my industrial experience I have always tried to speak—

Q. No, just tell us what you told.

A. What I will have to do, Mr. Ketterer, is to explain the way I did it, if you will permit me to start it that way.

MR. LAUTER: I think Mr. Ketterer will consent that the last remark of the witness be stricken from the record.

MR. KETTERER: That is all right, we consent to that. Just read the question again.

(The last question was read.)

A. Yes, there was.

Q. Now, tell us as nearly as you can and as nearly as you can recall, what you said in addition to your discussion of the proposed group insurance plan?

A. In addition to that?

Q. In addition to that?

A. I recall discussing the fact that there seemed to be some contention around, not specifically stating any kind or type of contention, but I did say this, that I was rather concerned of anything happening to the group there that would disrupt the family that they had come to be, which was a lot of employees, approximately 750 who had worked together and knew each other well and I could not see any reason for anything happening, or any reason for anything happening at this particular time. Beyond that I don't know that I discussed generally with them or for them anything pertaining to labor troubles or difficulties.

Q. Now, do you recall whether or not there was anything said by you in substance that "this is an old and obsolete mill, the Warren mill is of a newer type"?

A. Yes. We had to do that, appreciating the tonnage, Mr. Ketterer—

Q. Tell about that.

A. The statement I made there was this: Appreciating the fact that newer type of mills were coming into being, which is in our parlance the strip mills for continuous operation, I was fearful that perhaps when that unit started in Niles, Ohio, naturally—which Republic were rapidly pushing to completion—that it would mean the changing over of types of tonnages, which would mean that the tin plate angle of the Canton Tin Plate probably would be moved where it would be possible to make a better product cheaper. In that relationship I drew this comparison, that the Canton plant was nearly an obsolete plant and being a hand-operated mill, naturally the cost would be higher. I asked them to stay together with this view in mind, that it would be possible to gain enough tonnage from other sources other than the tin plate end of it, to be able to keep that plant running.

Q. Now, I will ask you whether or not you said to them—made this statement or this statement in substance at that meeting: "If we stay out of labor troubles this can be the mill to operate?"

A. No, I didn't say that.

Q. I will ask you to state, Mr. Davey, whether or not you made this statement or this statement in substance to the men at that meeting: "That you knew that there was an organizer in the mill, and that you would not raise a finger to do anything against this organizer?"

A. Mr. Ketterer, had I said that, I would have been perjuring myself.

MR. LAUTER: I object.

Q. Just answer the question.

TRIAL EXAMINER LINDSAY: Did you say that or didn't you say it?

THE WITNESS: I didn't say it.

MR. LAUTER: I assume with consent that the

preliminary remarks of the witness will be stricken out.

MR. KETTERER: Yes, disregard that.

THE WITNESS: I didn't say such.

TRIAL EXAMINER LINDSAY: The preliminary remarks are stricken.

MR. KETTERER: That is all right.

Q. I will ask you, Mr. Davey, whether or not you made this statement, or this statement in substance, to the men at that meeting: That if we insisted in getting ourselves into a bunch of labor trouble, that you would resign and leave the mill?

A. No, sir. I did say in substance, as you asked, "If you get in any trouble, I want you to know one thing, that I don't believe I would be here to fight your battles for you."

Q. When you made that statement what information did you have if any concerning a possible transfer from the tin plate division to any other division in Republic Steel Corporation?

A. I had had the understanding that I would be transferred, without any verification as to where I was going.

Q. And subsequent to this meeting you were transferred to another division of Republic Steel?

A. That is right, Stainless Steel Division.

Q. That is, Stainless Steel Division where you are now?

A. That is correct.

Q. Now, Mr. Davey, I will ask you whether or not during the time that you were at the tin plate division of the Republic Steel Corporation, or the Canton Tin Plate Company, its predecessor, you knew an employee whose name is Ross Schwartz?

A. I did.

Q. How long have you known Mr. Schwartz?

A. That is indefinite, but I would say approximately three years.

Q. Now, did you have any talk with Mr. Schwartz at any time that you can recall now, concerning a meeting of Timken men?

A. Yes, sir.

Q. Just tell us what was said by you as nearly as you can recall it, that conversation?

A. I was driving down Tuscarawas Street east, a rather cold day in December. I don't remember just where I happened to see Mr. Schwartz, but being a cold day and he was headed up town and I had nothing particularly to do I turned my car and picked Ross up.

Q. When was this, as near as you can tell?

A. I would not want to set that date, because I do not believe it would be authentic, I imagine around about the 12th of December, somewhere around in there.

Q. And at that time you were not connected with the Tin Plate Division?

A. No, I was not.

Q. All right.

A. When Mr. Schwartz got into my car and I said, "Where are you going?" He said, "Uptown." Well, I said, "I will take you up."

Part way up we passed the old Music Hall which I think is called the German Tunverein or something of that kind, and as we came up there was signs posted outside and I said to Mr. Schwartz, I said, "I understand they are having a mass meeting at that hall today?" He said, "Yes, they are."

I says, "I wonder what it is all about?" He says, "I don't know." I said, "I understand that there may be a sit-down strike at Timken's."

He said, "Would you like to know?" I said, "Well, I have no reason for wanting to know, but I am just curious enough to know."

"Well," he said, "I will find out." I drove on up approximately two blocks, if I recall properly, to the corner of Cherry and Tuscarawas Street and he got out, and later that evening Mr. Schwartz called me and all he said to me, "Jim, you are wrong on that, there is to be no sit-down strike at Timken's." It was just natural curiosity on my part, and no other reason.

Q. Now, at the time that he got out of the automobile and left your car on that day, I will ask you whether you made this statement or this statement in substance: "I will keep your nose clean and take care of you?"

A. I did not.

Q. Now, do you recall ever having a talk with Mr. Schwartz at any subsequent time after you—

A. I do not recall even seeing Ross from that time until this.

Q. Do you recall ever having had a conversation with him in the restaurant at the tin plate division of the Republic Steel Corporation?

A. I do not.

Q. I will ask you to state whether, at any time subsequent to the first conversation that you had with him, and which you have related here, you met him in the restaurant in the Canton Tin Plate Division and said to him in substance—or he said to you, "You are very nearly a stranger," to which you replied, "Yes, I know everything that is going on."

A. I believe I do recall that, but that was later than the time that you spoke about a few moments ago in your question. I would not want to try to recall when it was. I believe that I can relate that circumstance.

I had been called to the Canton Tin Plate to inspect what we termed a slitter that had been re-installed there and I had lunch there at that time. Now, Ross may have been in the restaurant that day and I may have spoken to him, I would not want to say yes to that and run the risk

of being right or wrong. However, I am not sure I did, or I would not say that I did not.

Q. Now, do you recall whether or not you said to him, or he said to you at that time, "Well, I told you the truth, didn't I?" And you replied, "Ross, get away from it." Or words to that effect?

A. No, sir, I did not say that.

Q. Now, Mr. Davey, are you acquainted with a man by the name of Verne F. Holderman?

A. I am.

Q. Has he ever worked in any department of the Republic Steel over which you had supervision?

A. Yes, sir.

Q. In what department?

A. In what we term the 80 grinding room of the stainless steel division at Massillon.

Q. And when did you first become acquainted with him as an employe of the Republic Steel Corporation?

A. Being a new man in the division it was a long time before I even picked up the names of individuals. I presume that it was sometime probably in the early part of November before I ever knew who Verne Holderman was.

Q. Of what year?

A. 1936.

Q. That was after you had transferred?

A. That is right.

Q. From Tin Plate to the Stainless Steel?

A. That is right.

Q. Now, I will ask you to state whether or not Verne Holderman was working in that department on the day of the strike at Massillon plant of the Republic Steel Corporation?

A. You say the day of the strike? Now, do you mean the evening of the time of the strike?

Q. Yes.

A. Yes, sir, he was.

Q. Can you tell us what turn he worked on that evening?

A. From 3 until 11:00—3 in the afternoon until 11:00 that night.

Q. Now, did that division of the plant operate during the strike?

A. No, sir.

Q. Now, will you tell us when, after the strike, that work was resumed in that department of the stainless steel division?

A. 7:00 a. m. on July 2nd.

Q. July 2nd?

A. July 2nd, 7:00 a. m., yes, sir.

Q. Now, were the men in the polishing and grinding department of the stainless steel division notified when the department resumed operations on July 2nd?

A. The ones that we could reach were, yes.

Q. Now, did this Verne Holderman return to work on the 2nd day of July, 1937, to your knowledge?

A. No, sir, he did not.

Q. Did you have any telephone call from him on or about that date?

A. No, sir.

Q. About returning to work?

A. I did not.

Q. When was the first time after the 2nd of July, 1937, that you had any conversation with Mr. Holderman, whether it was oral or by telephone, concerning his return to work?

A. On the afternoon of July 21st, I believe, approximately a quarter to 3:00 in the afternoon.

Q. I will ask you to state, Mr. Davey, whether, prior to the 21st of July, 1937, you ever talked with Verne Holderman between that date and the 2nd of July?

A. I did not.

Q. About returning to work?

A. I did not.

Q. Now, where did this conversation on the 21st of July take place?

A. Just outside the stockroom door in the finishing room of the polishing plant.

Q. Had any arrangement been made with you prior to that time to see the man at that particular time?

A. Yes, Mr. Schludecker, head of the polishing and grinding department, had made arrangements with Mr. Holderman to come in to see me personally at 2:45 on the afternoon of the 21st—I think it was the 21st.

Q. Now, did you see Mr. Holderman at that time?

A. I did.

Q. Did you have any conversation with him?

A. I did. I met him outside the door of the stockroom. I went up to him and I asked him what he had on his mind. He said something about "Well, when am I going back to work?" I asked him where he had been since July 2nd. He told me that he had been out of town on fishing trip, and I told him then, I said, "Well, that puts us in a rather peculiar position, because I can't read people's minds, and I didn't know where you were."

Q. Now, was there anything else said?

A. Just about that time, while discussing that, a group of men came out of the grinding room, which is the 80 side, led by a spokesman by the name of George Chapman. He stepped up and asked me if I would please leave. I said, "What for?" He said, "We'll handle this case." Which I did, I walked away.

Q. Where did you go?

A. Into the office, which is approximately 25 or 30 feet from where Mr. Holderman was standing.

Q. All right, now, did you see Mr. Holderman at any time later that day, the 21st of July?

A. Yes, probably ten minutes later I came out of the office and Holderman was just leaving the plant, and he

came back and he said something relative to "Well, the boys have voted me out of a job."

I said, "Well, that is too bad, and I am sorry." "Well," he said, "what am I going to do about it?" And I said, "Well, what can I do about it?"

"Well," he said, "then the men are running the plant?" I said, "I would not say that." He said, "You are no longer superintendent?" I said, "I think I am."

I asked him again, after he had said something else regarding—I don't remember just what that was, I asked the question, "Well, what can I do about it, and I was sincerely asking the question."

MR. LAUTER: I object to that.

MR. KETTERER: That may go out and be disregarded.

MR. LAUTER: As to the sincerity of this witness.

MR. KETTERER: Yes, that's all right.

Q. (By Mr. Ketterer) Now, was there anything else said that you can recall?

A. Yes, Mr. Holderman left, threatening to take it up with someone else, I don't know who. He said, "higher authority," I believe he said. Since that time I have not seen nor heard from Mr. Holderman.

Q. Has he ever made any further application to be returned to his employment?

A. No, sir, he has not.

Q. Now, I will ask you, Mr. Davey, whether prior to the time that Mr. Chapman came out, and when you were talking with Mr. Holderman, you had any knowledge of any action taken by the men in his department about his returning to work?

A. I did not.

Q. Mr. Davey, what is the fact as to whether or not you intended to put Mr. Holderman back to work when he came in on the 21st of July?

MR. LAUTER: Object to the form of the question, what the witness intended to do is entirely improper.

TRIAL EXAMINER LINDSAY: Yes, that is sustained. Let the record show an exception.

MR. KETTERER: All right. That is all, Mr. Lauter.

Cross Examination

Q. (By Mr. Lauter) Republic took over the plant that you and your brother owned, on July 1st, 1936?

A. Yes, sir.

MR. KETTERER: Excuse me just a minute, please, Mr. Lauter. If your Honor please, we would like to make an offer to prove on that.

TRIAL EXAMINER LINDSAY: Now, listen, I would not accept an offer to prove on that question. Now, if you ask a question, you ask it right and get the same answer.

MR. DAY: Ask what, if anything, he intended to do with relation to Holderman.

MR. KETTERER: All right.

Direct Examination

(Continued)

Q. (By Mr. Ketterer) What, if anything did you intend to do on the 21st of July?

TRIAL EXAMINER LINDSAY: That is not a proper question, either. "What did you do on the 21st?" You can get the same purpose in there if you ask it right, without his intention.

MR. KETTERER: All right, we do not care to make any further inquiry.

Cross Examination

(Continued)

Q. (By Mr. Lauter) Is there an unanswered question by me?

(The record read by the Reporter.)

Q. Subsequent there was a meeting which you addressed, is that correct?

A. I don't believe I understand—

MR. DAY: Read that first question and answer.

(The record was read by the Reporter.)

A. Do you mean previous to that?

Q. My recollection is that on direct examination you have testified to a meeting of Republic employees sometime in October, I believe it was?

A. Yes, but that was after the absorption by—

Q. That is what I say, it was subsequent to July 1st, 1936?

A. That is right.

Q. Can you fix the date of that meeting?

A. No, I cannot.

Q. Just come as closely as you can? Let us have the month.

A. I think some time in September; I am not definite.

Q. September of 1936?

A. That is right, I think so.

Q. It was then that the meeeting was held about which you have given testimony on direct examination?

A. Yes, that is correct.

Q. And it was at that meeting that you asked the men to stay together, is that right?

A. That is right.

Q. That is correct?

A. Yes, sir.

Q. Now, what else did you say in connection with staying together?

A. At that meeting, you mean?

Q. That is right.

A. Well, as I explained before, I had the men meet, and on the afternoon meeting I only talked to them in the first part of that meeting relative to Company insurance.

Q. I understand that. I am asking you what you said in connection with their staying together.

A. Only that we had been together for so many years and I didn't want to see anything happen to disrupt the work that had been going on for so long. We had understood each other's problems—those were not exactly the words but the sense of it. That I wanted them to stay together as we had in the years past which were four or five.

Q. Now, there was an Employees Representative Plan in operation?

A. That is right.

Q. Prior to the absorption by the Republic Steel Corporation?

A. That is right.

Q. And subsequent to that, that same Employees Representation Plan—had it continued in existence?

A. It did.

Q. And you are referring to this plan of representation when you spoke to these men?

A. I made no reference to the Plan; of any kind. Just service. I made no reference to any group of any employees about the Plan or anything else.

Q. What do you mean when you say you wanted them to stay together?

A. I wanted to fight their battles.

Q. What do you mean when you say fight their battles?

A. I had more or less always fought the battles for the men in the plant and I did not want the men to become disrupted. I had worked with these men for so long and I did not want them to change. If they had any troubles I did my best. For years that is what I had done. That is

what I mean when I made that reference to staying together.

Q. Now, had you spoken to them there at that meeting or at any other meeting previously about the Employees Representative Plan?

A. No, sir.

Q. Was there any change in labor policy after the Republic Steel Corporation took over your plant?

A. No, sir, there was no reason for any change.

MR. LAUTER: I move that that remark be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes.

THE WITNESS: I am sorry.

TRIAL EXAMINER LINDSAY: That remark may be stricken from the record.

Q. Are you sure that there was no change in labor policy after the Republic Steel Corporation took over the plant on July 5, 1936?

A. You mean by that, then, was the policy of the operations of the plant changed?

Q. I am talking about the labor policies of the operations of that plant.

A. None that I know of.

Q. Now, did you on any occasion speak in favor of the Employees Representation Plan either to a group of employees or to a single individual employee?

A. I may have done that in a group but I don't recall it and never to an individual.

Q. Now, what group of employees have you told, and on what occasion have you spoken to them about the Employees Representation Plan?

A. I don't believe I could understand; how do you mean that?

MR. LAUTER: Will the Reporter read the question?

(The last question was read.)

A. None that I can recall, Mr. Lauter.

Q. Maybe I don't understand you. I thought you said you had spoken to a group of employees?

MR. DAY: He said he may have.

Q. Were you speculating when you said you may have or are you recalling what actually happened because we are not interested in speculative testimony?

A. Speculation in what relation?

Q. You said that you may have spoken to the employees about the Employees Representation Plan, or do you mean that you may have or that you actually did?

A. No, I didn't know; not being definitely sure.

Q. You did say that you may have?

A. I may have.

Q. When you said that, you were speculating?

A. I think you mentioned about speculating.

MR. LAUTER: I move that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. Now, are you stating under oath that you never spoke in favor of the Employees Representation Plan? Or in favor of it to any individual?

A. I beg your pardon.

MR. LAUTER: Will you read that question to the witness?

(The last question was read.)

A. I think probably at different times I have talked about Representative Plans.

MR. LAUTER: I again ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: I am not interested in probabilities.

TRIAL EXAMINER LINDSAY: That may be stricken from the record.

MR. LAUTER: Just a minute. I object to wha the witness may have done or what he probably did I move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes. Those ar things that do not mean anything. Either you did o you didn't do it.

A. I will answer the question that I did, Mr. Lauter

Q. Now, when did you speak to any group or an individuals about the Employees Representative Plan or i favor of it?

A. That I don't recall.

Q. Do you recall what you said?

A. No, sir.

Q. Are you saying now that you don't recall wha you said in substance when you spoke in favor of this Plan

A. Yes, because I don't recall.

Q. I am not asking you what you don't recall. I a asking you whether or not you spoke in favor of this Pla

A. I would have to answer that I don't recall.

Q. I am not asking you for the words that you use I am asking you if you remember in substance what yo said.

A. I don't recall Mr. Lauter.

Q. Not a single word?

A. No, sir.

Q. And on any single occasion?

A. No, sir.

Q. Now, at that meeting some time in September 1936, did you speak in favor of the Plan?

A. No, sir, I didn't.

Q. You didn't say a word about the Employees Repre sentative Plan to any of the employees?

A. I have—I think I made—

MR. LAUTER: Will you read that question?

(The last question was read.)

MR. LAUTER: Will you finish that answe

Mr. Witness?

A. I think I made that clear in my previous testimony, Mr. Lauter.

Q. Yes, I understand that, but I am asking you whether or not you did or didn't say anything about the Employees Representative Plan at that meeting in September, 1936.

A. Not as an Employees Representative Plan.

Q. Did you refer to the representatives of operating under that Plan?

A. No, sir.

Q. Did you say that was a good Plan?

A. I did not.

Q. Now, how many times have you spoken in favor of the Employees Representative Plan?

A. That I would not want to state because I don't know.

Q. Try and recollect how many times? Twice or a hundred? Did you speak in favor of it twice or more?

A. I don't recall of ever speaking in favor of the Employees Representative Plan as a Representative Plan.

MR. LAUTER: (To the Reporter) Will you read back the cross-examination of this witness?

TRIAL EXAMINER LINDSAY: Let us take a short recess at this time.

(Recess had.)

Q. (By Mr. Lauter) Mr. Davey, the record is not very clear as to whether or not you have spoken to any groups of individuals about the Employees Representative Plan. Will you tell us for the record once more?

A. Is that the Employees Representative Plan, Mr. Lauter?

Q. That is right.

A. No, sir, I haven't.

Q. You have never spoken to any groups of individuals?

A. Not to my recollection?

Q. Have you spoken to any individual members at the plant about the Employees Representative Plan?

A. Not that I can recall.

Q. Did you testify in cross-examination that you may have spoken to them about the plan?

A. I believe I did.

Q. And you now recall that you didn't or that you don't recall?

A. I would rather state that I don't recall, Mr. Lauter.

Q. Now, your answers, of course, are directed and include that you talked to the employees, which refers to the Employees Representative Plan in operation at the Republic Steel Corporation, is that correct?

A. That I have given?

Q. Yes, sir.

A. Yes.

Q. For the sake of clarifying the record you are stating that you don't recall ever speaking to any group of individuals or group of men about the Employees Representative Plan, is that correct?

A. No, sir, I never did.

Q. Now, for the meeting in September, 1936, for how long a period, if at all, was the plant shut down in order that you might make your speech?

A. I would say approximately 10 or 12 minutes. That was the safety measure because we don't dare leave the hot mills idle. It would necessarily have to be a short session—10 or 12 minutes.

Q. How many were present at that meeting?

A. The evening meeting I would say, approximately 150 or 160; around there.

MR. DAY: Mr. Davey, will you talk a little louder, please? I can't hear you.

THE WITNESS: Yes, sir. I am sorry. Ap-

proximately 150 men at the evening meeting.

Q. Now, Mr. Davey, did you or didn't you say that you had very good representatives, and any time you have any kind of grievances they are capable of handling them?

A. No, sir, I don't recall saying that.

Q. Do you recall whether or not you met Johnny John in the latter part of February at the clock house or what is known at the watchman's shanty?

A. I believe so.

Q. Did you speak to him at that time about the C. I. O.?

A. I didn't.

Q. Do you recall what conversation you had with Mr. John?

A. Yes, sir.

Q. Will you relate what the conversation was to us?

A. As nearly as I can remember it is this. John seemed to be in need—Mr.—

MR. LAUTER: I object to "John seemed to be in need." I ask that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may go out.

A. (Continuing) He wanted advice relative as to what he should do as a member.

Q. He didn't mention any organizations?

A. Not that I recall. My only advice to him was that I was no longer connected with the Canton Tin Plate Company and I advised him to see Mr. Sam Davey. He was my superior; and he proceeded to give him the best advice he needed.

Q. Did you take him to Sam Davey?

A. No, sir.

Q. Did you accompany him at that time?

A. No, sir, I didn't.

Q. You weren't present when Sam Davey and Johnny John talked out there?

A. Not that I recall.

Q. Did you at any time tell any of the individual members or group of members that the mill was old and obsolete?

A. Yes, sir.

Q. And urged them to stay out of labor troubles?

A. I don't believe I urged them to stay out of labor troubles. I made a statement that I hoped they would stay out of labor troubles. I believe that was the tenor of my meeting.

Q. You said that the reason you were interested in knowing about a sit-down at the Timken Company was a natural curiosity?

A. Yes, sir.

Q. That was the only explanation you gave—

A. Yes, sir.

Q. —to a Mr. Schwartz about the reason?

A. Yes, sir.

Q. About the shut-down?

A. Shut-down, Mr. Lauter?

Q. The sit-down?

A. Yes, sir.

Q. (By Mr. Lauter) You had a conversation with Mr. Verne Holderman on or about July 22nd?

A. July 21st, that's right.

Q. In which you asked him where he had been?

A. Yes, sir.

Q. Do you know the strike is still on?

A. Sir?

Q. Do you know that the strike of the C. I. O. is still on?

A. I am not familiar with that strike, I don't know whether the strike is still on or not.

Q. What is your position in the mill?

A. Division superintendent.

Q. And you don't know that the CIO strike is still on?

A. I know that there is a strike. You asked a question, do I know that the strike is still on?

Q. That was my question.

A. I know that there is a strike on. That has been the strike on, Mr. Lauter, yes, sir.

Q. Well, what did you mean when you said before you didn't know? What question were you answering?

A. Well, the only thing that I had in mind is that my plant was operating and I thought that you had—

Q. I am not interested in whether your plant was operating. Answer my question.

A. Yes, I know there is.

MR. LAUTER: Read the question, please.

A. I know there is a strike.

MR. LAUTER: Now, just a minute. Read the question, Mr. Reporter. Let me have the answer read back, too.

(The record was read.)

THE WITNESS: Now, Mr. Lauter—

Q. (By Mr. Lauter) Is that answer correct?

A. No, that is not correct, I would like to change that answer.

Q. How do you want to change the answer?

A. That I know there is a strike still on.

Q. Did you know on July 21st there was a strike of the C. I. O. on at that time?

A. Yes, sir.

Q. That was the day that Mr. Verne Holderman came to see you?

A. That is right.

Q. And you had a conversation with him?

A. That is correct.

Q. And at that time he asked you whether you were still superintendent?

A. Yes, sir.

Q. And you stated to him that you were?

A. Yes, sir.

Q. At that time he asked you whether the men were running the plant or whether you were running the plant?

A. He did.

Q. And you said that—what did you answer him?

A. I said that I thought I still was.

Q. Was it at that time that a spokesman came to you, a spokesman for a group of men, and told you that they had voted not to work—

A. No, sir.

Q. —with Mr. Holderman? What did the spokesman tell you?

A. No, sir. It was after that occasion, Mr. Lauter.

Q. Well, how soon after that occasion did he come and tell you that?

A. I would say approximately eight to ten minutes afterwards.

Q. About eight to ten minutes afterwards?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: Just a minute, Mr. Lauter. There is one of your questions is not quite clear to me. You didn't mean that—

THE WITNESS: No, sir, that was—

TRIAL EXAMINER LINDSAY: No, I am talking to Mr. Lauter.

THE WITNESS: I beg your pardon.

TRIAL EXAMINER LINDSAY: "Voted not to work."

(The record read by the Reporter.)

Q. (By Mr. Lauter) Is it true that at about this time that this group of men—

A. Mr. Lauter, may I—

Q. —came with a statement—

A. If I may interrupt your question just a moment, the thing that I meant to say by that was that the question was asked and it seemed to indicate that you wanted me

to answer that Holderman had said these things to me previous to our conversation.

Q. No.

A. I am sorry, I misunderstood.

Q. I am only interested in knowing whether or not, at about that time, a group of men headed by a spokesman came to you and told you that they voted not to work with Holderman?

A. No, sir, they didn't tell me that.

Q. What did they tell you? What was it they told you?

A. They came up to where I was talking to Mr. Holderman, asked me to leave and I said, "Why?" And they said, "We'll handle this case," and I immediately walked away from where Mr. Holderman was standing.

Q. You were the superintendent at that time, weren't you?

A. That is correct.

Q. And the question of hiring and firing was within your province, is that correct?

A. That is correct.

Q. And you could have told these men to go back to their machines right then and there, couldn't you?

A. I presume so.

Q. Well, you know your authority, don't you?

A. Yes, sir.

Q. And that was your authority?

A. Yes, sir.

Q. You could have told them to go back to their machines?

A. Yes, sir.

Q. But you didn't?

A. I did not.

Q. You let them handle the question of whether or not this man could go back to work?

A. Yes, sir.

Q. And when they voted not to work with him, you accepted their decision?

A. Only in this way—

Q. Well, just one second. Did you or didn't you accept their decision?

A. I did.

Q. And he is not working there today?

A. He could be.

MR. LAUTER: Well, I ask that the answer of the witness be stricken.

Q. (By Mr. Lauter) Is he working there today? You know the answer to that question.

A. He is not, no, sir.

Q. Have similar cases happened with other men?

A. No, sir, not to my knowledge.

Q. You don't know that other men have been voted on, as to whether or not they shall go back to work?

A. In my department?

Q. In the plant?

A. No, sir, I do not know that.

Q. Do you know whether it has happened in your department?

A. No, sir, I don't think so.

Q. Is that the only case that you know of?

A. Yes, sir.

Q. Will you state for the record why Mr. Holderman is not working in the plant?

A. Now?

Q. That is right.

A. As before stated, just because the men refused to have him back in that particular department.

Q. That is the only reason, is that correct?

A. That is absolutely so, yes, sir.

Q. You stated that the men were notified that operations would be resumed?

A. Yes, sir.

Q. That was sometime about July 2nd?

A. The night of July 1st and the morning of July 2nd, Mr. Lauter.

Q. Whom did you advise to notify the men?

A. The foreman of each department.

Q. What were they instructed to do?

A. To contact the men that they were reasonably certain did want to get back to work, and to notify them that their jobs were starting up on the morning of July 2nd.

Q. Did you say "to contact the men they were reasonably certain wanted to go back to work?"

A. Yes, sir. We were opening the plants for their jobs, and to get in touch with those men and tell them that the plants were opening on July 2nd at 7 o'clock.

Q. Was that the limitation placed upon them. And their activity? That they were to be reasonably certain of the men who wanted to go back to work, before they contacted them?

A. I don't believe that—in fact, I know, Mr. Lauter, I didn't put any limitations on them, I simply told them that we were starting the plants and to get the men lined up sufficiently to work the plants, and for the men to come in to work, which was done.

Q. In other words, what you told the foremen was to advise the men to report back to work in the plant, is that correct?

A. That is correct, yes, sir.

Q. And that was on July 2nd that you so instructed the foreman?

A. It was the night of the 1st and the morning of the 2nd.

Q. The 1st and the 2nd?

A. Yes, sir.

Q. And pursuant to your instructions the foremen did go out and either personally call employees or telephone them?

A. They did.

Q. Or at any rate, did get in contact with your employees to advise them to report to work, is that correct?

A. That is correct.

Q. Have new men been hired since the strike?

A. In my department, Mr. Lauter?

Q. That is right.

A. No, sir.

Q. No new men?

A. We have two or three borrowed men who are not employees of that particular department, and those men will be sent back to their own jobs.

Q. I am not asking you what will become of them.

A. Well, new men have not been hired, then.

Q. That is in your department?

A. That is correct.

Q. Do you know whether or not that is true with respect to the mill?

A. I don't know.

Q. You don't know whether or not new men have been hired?

A. In other departments, you mean?

Q. That is right.

A. I do not know, no, sir. I have 800 headaches to care for, and I don't know.

MR. LAUTER: I move the remark of the witness be stricken about headaches.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. LAUTER: That's all.

MR. KETTERER: That's all, Mr. Davey. Thank you.

(Witness excused.)

JOHN G. STEWART

resumed the stand, and, having been previously duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) You are Mr. Stewart?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: You have been sworn?

MR. DAY: This man was on. I am calling him on another matter.

Q. (By Mr. Day) Were you working for Republic when the Employees Representative Plan was started at Canton plant?

A. Yes, sir.

Q. And what, if anything, did you have to do with the plan in nineteen hundred and thirty—When was it started, first?

A. In June, in 1933.

Q. In June. Did you have any connection with the Plan in 1933?

A. I was a representative, 1933 and '34.

Q. You were representative in 1933?

A. Yes, sir.

Q. And were you re-elected in 1934?

A. No, sir.

Q. Were you there the first year?

A. Yes, sir.

Q. Now, were you a representative after that?

A. I was representative in 1935 and '36, the third year of our Plan.

Q. When you were not representative, had you kept in close touch with it?

A. Yes, sir.

Q. When was the Employees Representative Plan begun in Canton Plant? In what month of 1933?

A. June.

Q. Do you know how it was started?

A. There was notices posted about a plan and we held an election to nominate, followed by an election to elect our representatives.

Q. Now you say "we held an election." Now just tell us what plants you included in that answer? Employees of what plants?

A. The Employees of what we termed the Northeast Plant, Alloy Division and South Division.

Q. About how many men are employed there?

A. Well, supervisory and all, that is about as far—I don't know, possibly five thousand.

Q. That is your estimate?

A. Yes.

Q. And can you give us any estimate as to how many of those five thousand work in a supervisory capacity?

A. No, I couldn't.

Q. While we are on that subject, do you know how many men remained in the East End Plant from the time the strike was called until work was resumed generally?

MR. LAUTER: Object until this witness can testify of his own personal knowledge as to the number of employees.

Q. Yes, I do not want you to guess at it. If you haven't any personal knowledge, don't answer the question. Have you any personal knowledge on the subject?

A. I have no personal knowledge, I was not on the inside.

TRIAL EXAMINER LINDSAY: All right. Then the objection is sustained.

MR. DAY: Well, I will withdraw the question.

Q. Now, you say that there were—when the Plan was inaugurated, there was some bulletin posted at—

A. Notices.

Q. Can you recall the substance of what those posters

or bulletins said?

A. They went on formulating the plan; we had representatives elected from different departments to handle their grievances and other working conditions.

Q. State whether or not that was the first knowledge you had of the Employees Representation Plan?

A. It was.

Q. When, according to your best recollection, did you first see a notice of that kind?

A. The only way I can place the time on that was the early part of June, June to—I know that it was in that time that we held our election.

Q. Of '33?

A. Yes.

Q. Now, were you elected an employee representative then?

A. Yes.

Q. For what department?

A. South Division.

Q. How many Employee Representatives did the South Division have?

A. The first year we only had one.

Q. Did the Employees Representative Plan in Canton, in 1933, at the time that it was inaugurated, cover all of the Canton plants?

A. Yes, excepting Berger, Truscon, which was not a part of the plant.

Q. Well, did Republic at that time own Berger?

A. I think they did.

Q. Well, did they come into the plan later?

A. Not to our plant, no.

Q. Not to your plant?

A. No.

Q. What was the method of selecting the employee representatives under the employee representative plan that was inaugurated in 1933?

A. Our No. 1 committee on rules and ways and means had charge of our elections. They posted notices, when our nomination was to be, and a person could vote for two for each party to be elected. Following the nomination there was three names on the election ballot for each party to be elected as a representative.

Q. That is, there were three nominations for an office to which one was elected, is that right?

A. Correct, yes.

Q. Go ahead, I do not want to interrupt you. Go ahead.

A. They followed with their election, which was held by secret ballot at our booths, the same as any city election. Ballots was placed in boxes.

Q. I want to ask you about that a little more in detail. How many representatives were selected at the beginning, for the plants that were included in the Representative Plan?

A. You mean the first year?

Q. Yes.

A. First year, operations was down a little. I believe there was some 21 or 22 at our first election; it was around 20.

Q. Now, you say that the nomination was first held; where was it held?

A. In the plant.

Q. On company property?

A. Yes, sir.

Q. And was the election also held on company property?

A. Yes, sir.

Q. And do you know who furnished the booths that were used for the voting?

A. The company, as far as I know.

Q. And the ballots that were used to evidence the intention of the voters, who provided them?

A. The company.

Q. And can you give us some idea of the time that was taken up in making the nominations and elections?

A. It was about ten or twelve hours a day, average about 2 days for nominations and two days for election.

Q. Who had charge of the supervision of the conduct of the election?

A. Our No. 1 committee, rules, ways and means.

Q. Did you have anything to do with the conduct of the election?

A. I acted as teller.

Q. At the first election?

A. No, not the first election. At the second and fourth.

Q. Not at the first? Did you vote at the election in '33 yourself?

A. Yes, sir.

Q. And at subsequent elections?

A. Yes, sir.

Q. Well, after the nominations had been made and the selections of representatives of employees representation plan had been made, were there any meetings held of the elected representatives?

A. Yes, sir. An organization meeting.

Q. Can you tell us about when that was?

A. It was on the Monday following our election. That meeting was held—

Q. Where was this meeting held?

A. In the Industrial Relations Building.

Q. Of the Republic Steel?

A. Of the Republic Steel.

Q. On company property?

A. Yes, sir.

Q. Now, what, if you recall, transpired at that first meeting of the Representatives selected in June, 1933?

A. We elected a chairman, a secretary, and the chair-

man and secretary, in turn, selected two or three men, representatives, to assist them in selecting the other committees.

Q. What did you have to do with that, back at the beginning, back in '33?

A. I was selected as one of the representatives to help select the other committees.

Q. Well, how was it determined at the beginning of this organization who belonged to it?

A. An employee of Republic Steel.

Q. What I am getting at, was there a voting for these representatives, first, before there was any membership? Were there membership cards at the beginning? Anything of that kind?

A. No, they had no membership cards. There was a list of the employees eligible to vote.

Q. Would all those who voted be—automatically become members of the organization?

A. Yes, sir.

Q. And that was the only method of identifying the membership, is that right?

A. Yes, sir.

Q. Do you recall whether or not, at the beginning or around about the beginning, you adopted a constitution or a constitution and by-laws?

A. Yes, sir.

MR. DAY: Now, Mr. Examiner, in the evidence, counsel for the Labor Board put in the Canton by-laws. Will you see if we can find it?

Q. You were connected with the Alloy, were you not?

A. South Division .

Q. Not the Tin Plate?

A. No.

Q. Alloy? I am asking you, so I can get the right book.

A. We all had the same book, alloy division, as you

term it.

Q. I am showing you a little booklet here that has already been introduced into evidence by counsel for the Board, identified as Board's Exhibit 21. Now, will you take a look and tell us whether that is the book of the Plan of the Employees Representation Plan, Central Alloy district, Canton Works, 1933?

A. It is.

Q. And do you know of your own knowledge whether or not the Plan was amended from time to time in 1933 or after that?

A. Yes.

Q. And were those amendments duly carried into the constitution?

A. Yes, sir.

Q. Now, the officers that were elected of the plant served for how long?

A. For that year they were elected.

Q. Now, can you remember the officers elected at this first election in this Union I am asking you about; this Plan I am asking you about?

A. Mr. Paul Bosky was Secretary. I can't think of the Chairman's name right now.

Q. Well, was Frank Geltz Chairman for some time?

A. Frank Geltz was Chairman in 1936 and 1937.

Q. Not at the beginning?

A. No, he wasn't a member.

Q. Well, if you can recall any of the other officers, tell us.

A. No, I can't.

Q. Well, we will show it by some other means. If it becomes important, we can show it. What if anything was done to form or establish Committees for this Employees Representation Plan?

A. They elected officers; that is, the Chairman and

our Secretary, they in turn selected two or three men which chose the members for the other various Committees.

Q. I think you stated you were one of those men?

A. Yes.

Q. Now, tell us what Committees were set up.

A. It was what we call a No. 1 Committee; with the rules, ways and means.

Q. Now, what did that Committee do?

A. They had charge of elections and the change in laws.

Q. What was your next Committee?

A. The No. 2; rules, wages and working conditions. They handled grievances pertaining to wage adjustments. No. 3 was a sanitary and health safety. No. 4 appeals committee. Cases which could not be settled. If it was not settled with the other Committees it automatically came up with this Committee.

Q. How many representatives were on each Committee the first year?

A. The first year, I don't believe we had 20; some of our Committees only had four members, so I think it was less. After the membership, due to operations, came up to the point where they had five on each Committee. That was the maximum.

Q. What Committee were you a member of?

A. The Appeals Committee.

Q. What was the Appeals Committee?

A. To handle cases that could not be handled by the other Committees.

Q. You say handle cases. Now, will you tell us and describe in your own way the steps by which cases were handled by the Appeals Committee by the Employees Representative Plan established in 1933? In the first place, when you say cases, do you mean grievances?

A. Yes.

Q. Now, what was the first step if a man working in the plant had a grievance?

A. The first step, if a man working in the plant had a grievance, he would go before a Committee man, a representative; he in turn to his foreman or superintendent, and if they could not get the matter adjusted they took it up with the No. 2.

Q. Let us take one step at a time. If a man had a grievance where did he go first?

A. To his representative.

Q. What do you mean by representative?

A. The representative of the department where he works.

Q. Now, what was the function of the representative to do if a man presented his grievance to him?

A. His duty was to go to his foreman and see if he could have this grievance straightened up and corrected.

Q. Then would the representative go to the foreman?

A. Yes.

Q. Or would he go by himself or would the man with the grievance go with him?

A. The man could go along if he so chose.

(Discussion off the record.)

Q. Now, assume that the grievance is not satisfactorily adjusted after the man with the representative, or the representative alone, goes to the foreman. Now, what was the next step?

A. Took it up with the superintendent of the department.

Q. Assume that the representative has taken the matter up with the superintendent of the department, and no adjustment has been made. What is the next step?

A. He filed the case in writing with the No. 2 Committee.

Q. Is that the Appeals Committee?

A. No, that was the Committee on Wages and Work-

ing Conditions.

Q. Now, what then happened, if anything, before this No. 2 Committee? What was the procedure?

A. The procedure?

Q. Yes.

A. His first step was to take his grievance to the representative and the foreman.

Q. Now, you have got your grievance before the No. 2 Committee. Now, what was the procedure of handling the matter or disposing of it there? The No. 2 Committee?

A. The No. 2 Committee took the matter up from there with the management.

Q. Before they took it to the management, did they give it any consideration?

A. Yes, sir.

Q. Now, what was the method of handling that consideration?

A. They reviewed the grievance. It was in writing at that stage. A copy had been given to the Company—or the management representative, and I believe two copies to the management, and one was kept by the employee.

Q. Now, you have mentioned the management representative. Who were they?

A. The first year was a Mr. Phillips.

Q. Just one?

A. Yes.

Q. Then do I understand that the No. 2 Committee would take the grievance up with the Management representative?

A. Yes, sir.

Q. All right. Now, suppose that nothing was done by way of satisfactorily adjusting the grievance. What was the next step?

A. The next step was taken with the Joint Committee.

Q. Now, what was the Joint Committee?

A. The Joint Committee consists of a number of employees' representatives and Company representatives.

Q. How many were there, do you remember?

A. The first year, in two of the Committees there was only four I believe.

Q. All right. Now then, you say there was an equal number of Company representatives and an equal number of employees' representatives, is that correct?

A. Yes, sir.

Q. Now, would that mean that they were both equal in number?

A. Yes.

Q. Now, suppose that they could not agree satisfactorily? What was the next thing that would happen?

A. It was taken to the District Manager.

Q. Who was the District Manager in 1934?

A. Portz.

Q. Portz.

A. Yes.

Q. How long did he remain the District Manager?

A. He is still District Manager. It is due to sickness that he is inactive.

Q. Who is the District Manager now?

A. Carl Meyers.

Q. Carl Meyers?

A. Yes, sir.

Q. Now, if the matter was not satisfactorily adjusted with the District Manager when it was taken there, what was the next step after that?

A. It came to the Appeals Committee.

Q. The Appeals Committee?

A. Yes, sir.

Q. And is that the Committee that you are a member of?

A. Yes.

Q. Now, what was the Appeals Committee? How did

they operate?

A. They had to take it up with the President of the organization trying to get an adjustment.

Q. Would the Appeals Committee itself try to do anything before taking it up with the President or was it the function of the Appeals Committee to take it up there?

A. The Appeals Committee.

Q. Were there any Company representatives on the Appeals Committee?

A. It was a joint Appeals Committee.

Q. A joint Appeals Committee?

A. Yes, sir.

Q. If they would not agree they went way up, is that correct?

A. Yes, sir.

Q. At the nomination and election in 1933, back at the beginning, did anybody act in a supervisory capacity for the Company or have anything to do with it?

A. No, sir.

TRIAL EXAMINER LINDSAY: Just a minute. Will you read that question and answer?

(The last question and answer were read.)

Q. By whom were the nominations and the elections conducted?

A. By No. 1 Rules and Wages Committee.

Q. That, as I understood you to say, was a Joint Committee?

A. No, that was a Standing Committee.

Q. A Standing Committee?

A. Yes, sir.

MR. DAY: May I have these three papers marked for identification?

(Thereupon the documents above referred to were marked as Respondent's Exhibits Nos. 19, 20 and 21 for identification.)

Q. I have here three exhibits that were marked Re-

spondent's Exhibits 19, 20 and 21 and I will ask you whether or not 19 and 20 are the forms of nomination and election ballot that were used as far as you know (handing two papers to the witness)?

A. The yellow is the nomination; the white one—

Q. Were those the forms that were used as far as you know?

A. Yes, sir.

Q. I have here Exhibit 21 that seems to be a notice of election June 9th, 1936 and signed by Gathers, Dunn and Cox. Were they men in your organization?

A. Yes, sir.

Q. I will ask you whether or not that is a general form of election notice that was used.

A. That was the notice that was posted around the bulletin boards around the plant.

Q. They were?

A. Yes.

MR. DAY: I want to offer them in evidence: these three exhibits.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibits 19, 20 and 21 may be received in evidence.

(The documents heretofore marked "Respondent's Exhibits Nos. 19, 20 and 21" for identification, were received in evidence.)

Q. Do you know whether or not grievances were disposed of before they reached any of these Appeals Committees or things of that kind by the foremen or by the superintendent?

A. Yes, the majority of our grievances was settled before it ever reached a Committee.

Q. You are just testifying to what you have knowledge of yourself, is that right?

A. Yes, sir.

Q. And others that were not settled were put up along the line, is that right?

A. Yes, sir.

Q. In 1936 were you a representative?

A. Up to June, 1936. At the time of the election up to the discontinuance of our Plan I wasn't.

Q. Then you were not a member—a representative?

MR. LAUTER: Do I understand that there was a discontinuance? May I have that answer read?

(The last answer was read.)

Q. I understand what you mean is that you were elected a representative in 1935, is that right?

A. '35, yes.

Q. And then you served from 1936?

A. Yes, sir.

Q. But regardless of discontinuance of the Plan you were not elected a representative until your term expired in 1936, is that right?

A. That is right.

Q. That is all Employees Representative Plan? E. R. P.?

A. Yes, sir.

Q. Employees?

A. Yes, sir.

Q. Did you have anything to do with the E. R. A.?

A. Nothing more than joining it and signing a card.

Q. You joined it and signed a card?

A. Yes.

Q. Now, when did you sign a card for the E. R. A.; and I understand that means Employees Representative Association, is that right?

A. Yes.

Q. Now, I will refer to that as E. R. A. as contrasted to E. R. P.; the original Employees Representative Plan. Did you attend any meetings—were you present at any

meetings of the representatives under the E. R. P. before the E. R. A. came into existence? You were not a member, were you?

A. No.

Q. Then you signed a card for the E. R. A.?

A. Yes, sir.

Q. Now, can you remember about when that took place?

A. Along in May, I believe.

Q. About 19 what?

A. 1937.

Q. This year?

A. Yes; possibly earlier than that it may have been; I am not definite on that time.

Q. Well now, can you describe the activities of the E. R. A. from your own personal knowledge or not?

A. I know of no activities.

Q. Now, do you have any knowledge of the organization; the still newer Union at the Canton plant?

A. Yes, sir.

Q. What if anything did you have to do with the organization of that Union?

A. I work at South Division and following our strike we went back to work. When we got back to work we got to talking and we thought we needed an organization to protect ourselves.

MR. LAUTER: I object to what the men got to talking about and move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken from the record.

Q. Now, during the strike, where were you? I think you have already told us about it. Tell us again so we can recall the situation.

A. I was working out of the Belden Hotel in charge of a bunch of men who were guarding the homes of fellow

workmen in the plants.

Q. When did you first attend a meeting or gathering that had to do with the organization or creation of a new Union?

A. At my home.

Q. About when was that?

A. That was on the Tuesday previous to the 23rd of July. Yes. I think that was on a Friday; it was a Tuesday at my home.

Q. About that time you had a meeting?

A. Yes.

Q. About what time of the day was this gathering held?

A. 7:30 or 8 o'clock.

Q. Was that after the troops had come in or before?

A. After.

Q. At that time what was the condition of the Canton plant as to being open or otherwise?

A. We had troops—the town give us police protection.

Q. I don't care about that.

A. The plants were open.

MR. LAUTER: I ask that that answer be stricken from the record.

MR. DAY: The answer may go out by consent.

TRIAL EXAMINER LINDSAY: Yes, that answer may be stricken.

Q. Were the plants open?

A. Yes; being picketed.

MR. LAUTER: I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. Strike that answer.

MR. DAY: That may go out by consent.

Q. Just answer my question and don't volunteer anything.

TRIAL EXAMINER LINDSAY: You don't have to be too anxious to volunteer anything unless your attorney asks you questions.

Q. I am trying to fix the time. When the strike was called, the plants in Canton closed down, didn't they?

A. Yes.

Q. Now, what plants went down?

A. The South Division, the Canton Tin Plate, the South Division worked to the end of the week following the Tuesday. The other plants closed.

Q. Now, can you tell us about when it was that the plants that had been down after the strike was called, resumed work?

A. At the South it was about the 1st. The last day of June or the 1st of July; it was on a Friday.

Q. That is where you worked?

A. Yes, at 6 or 7 o'clock in the evening.

Q. When you had this meeting at your house that you were going to tell us about, were all the plants open?

MR. LAUTER: Objection unless this witness can testify from his personal knowledge.

Q. Yes. Do you know whether or not they were open?

A. They all were—I can't say about the Canton Tin Plate; I don't know. They may have.

Q. Now, was this meeting after the troops had come into Canton?

A. Yes.

Q. Now, who gathered at your house on that occasion?

A. Fellow workmen.

Q. Now, name some of them who came in.

A. Mr. Reese.

Q. Let us take their jobs as you name them. What was Mr. Reese's job?

A. He was a job mill roller.

Q. All right. Who else?
A. Mr. Kirkland.
Q. Mr. Kirkland?
A. Yes.
Q. Do you know what was his job?
A. His job was a sheer man in the finishing department.

MR. LAUTER: May we have the first name?

Q. Give us the first name of Mr. Reese first for Mr. Lauter; he wants his first name.

MR. LAUTER: I want Mr. Kirkland's first name.

THE WITNESS: Charles.
Q. All right. Who else?
A. Mr. Deerer.
Q. His first name?
A. Charles.
Q. What was his job?
A. He is a rougher in the A Mills.
Q. Now, who else?
A. Mr. Grah.
Q. How do you spell that?
A. G-r-a-h.
Q. What was his position?
A. He is a clerk.
Q. Who else?
A. Mr. Dice.
Q. Dice?
A. Yes.
Q. How do you spell that?
A. D-i-c-e.
Q. What was his job?
A. A pipe fitter.
Q. (By Mr. Day) Now, so far as you know, were any of those men working in a supervisory capacity?
A. No, sir.

Q. They met at your house?

A. Yes, sir.

Q. Now, tell us, refraining from giving your own conclusions, what was said at that meeting that gathered, as near as you can recall it?

A. We discussed the plan of forming the organization for collective bargaining with our employer. Proceeded to lay plans for that purpose.

Q. Now, can you tell anything that was said with relation to the Plan or setting up the Plan, if you can, who said it?

A. I don't get your question clear.

Q. Will you tell us what anybody said, or what was said by anybody present that day, what language they used, what was spoken, or the substance of what language was used or words spoken?

A. Well, the opinion of the men was that we should have some—

MR. LAUTER: I move that be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken out of the record. Let the record show an exception.

MR. DAY: Exception.

Q. You say the opinion of the men is your own conclusion. What did the men say?

A. Our discussion was that we needed an organization to protect ourselves against the same thing we just came out of.

MR. LAUTER: I move that the answer be stricken out.

Q. Well, was that said?

A. That was said.

TRIAL EXAMINER LINDSAY: Yes.

Q. Well, now "discussion" does not mean anything.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: That is all

stricken out. Now tell us what they said and what you said. "Discussion" does not mean a thing.

A. We said that we wanted to form an organization for collective bargaining with our employer.

Q. Was anything said as to the purpose of the organization or the reasons for it or anything of the kind?

A. Yes, we would have a repeat of the same condition we just had, without it.

Q. Did somebody say that?

A. Yes, that was the general discussion.

Q. Do you know—

MR. LAUTER: I move the answer be stricken. The witness has said something about "general discussion" there. Let's have—

MR. DAY: Well, leave the general discussion out of it.

TRIAL EXAMINER LINDSAY: Yes, that may be stricken out.

MR. DAY: Strike that out.

Q. (By Mr. Day) Do you know whether or not these men that came to that meeting, or some of them, had been in the Canton mill during a part of the strike?

A. They were all out.

Q. They were all out, then?

A. Yes, during the strike.

Q. They were all out? They all had been out during the strike?

A. Yes.

Q. Was there anybody at that meeting who was in during any part of the strike?

A. No, sir.

Q. About how long did that preliminary—or that discussion and talk at this gathering take?

A. Two or three hours.

Q. Where did these men come from, from what division?

A. South Division.

Q. Were they all South Division?

A. Yes, sir.

Q. Now, following that what, if anything, did you do with relation to this new union?

A. I had a conversation with Mr. Geltz.

Q. Now, who is Mr. Geltz?

A. Mr. Geltz is an employee of Republic Steel, working in the 8 inch mill, Alloy Division.

Q. What, if anything, did Mr. Geltz have to do with the E. R. P.? What office did he hold?

A. He was chairman of the General Body, the last year.

Q. The last year? Where did you have that talk with Mr. Frank Geltz?

A. Over the telephone.

Q. What was said upon the subject of the new union?

A. I told him about our meeting, he told me that they had been talking the same thing of having a meeting for similar purposes on the coming Sunday.

Q. Now you say "they". Who is "they"?

A. "They" the ex-representatives.

Q. The ex-representatives? That the ex-representatives had had a talk about having a meeting on the coming Sunday?

A. Yes, coming Sunday.

Q. Upon the same subject?

A. Yes, the same.

Q. Or the same general subject? Now, then, after that, what was the next thing that happened?

A. I went to work, the thought struck me and I called —

Q. Don't tell what the thought struck you, again, just tell what you did, Mr. Stewart.

A. All right.

Q. All right.

A. I went to work, I called Mr. Geltz, suggested to him that he get several of the men to come to my home on Friday evening and we would discuss what our plan was at South, which they did. They met at my home on Friday evening, the same week.

Q. Can you give us the approximate date of that Friday evening?

A. A calendar would not be hard.

Q. What?

A. A calendar would not be hard.

TRIAL EXAMINER LINDSAY: Just give the approximate date.

Q. Give the approximate date it occurred. Just give the—

A. I would say about the 16th or 17th.

Q. In July?

A. Yes, the 23rd, I believe, was Friday following that.

Q. July?

A. Yes.

Q. Now, who met at your house at that time?

A. It was Mr. Geltz, Ray Lilly.

Q. Now, Mr. Geltz was chairman of the Representative Plan?

A. Yes.

Q. Ray Lilly, what, if any, connection had he had with the representative plan?

A. Ray Lilly?

Q. Yes.

A. He had been secretary.

Q. All right. Who else?

A. A man by the name of Fisher.

Q. Had he been a representative?

A. Yes.

Q. Had he been an officer of the E. R. P.?

A. I couldn't say that. He wasn't in that part, last year.

Q. Who else?
A. Mr. Lappin.
Q. Carl Lappin?
A. Carl Lappin.
Q. Had he been a representative?
A. Yes.
Q. An officer?
A. I couldn't answer that.
Q. All right, who else?
A. I can't recall.
Q. Well, about how many got there?
A. Three, four, or five. There was half a dozen.
Q. Now, were any of the men there at that meeting that had been at the first meeting you told us about?
A. No, sir.
Q. South Division, were you the only South Division man there?
A. I was the only South Division man there.
Q. What other men were from what plant?
A. The Alloy division.
Q. What, if anything, was said at that gathering that you just described, upon the subject of a new union?
A. They discussed the plan of forming a new union among us. I told them our plans.
Q. What did you say your plans were?
A. Of getting organized together for our own protection.
Q. Yes, go ahead.
A. And we decided on a meeting on Sunday, to get a cross-section picture of the whole plant.
Q. Was that discussed there?
A. Yes, sir, the plan was—
Q. Now, just tell us, if you can remember, what was said, at that meeting, and don't tell us anything that wasn't said, or don't put your own conclusion on what was said. Tell us what was said, if you can remember anything else?

A. Mr. Geltz was to contact the different representatives, requesting them to come to a meeting on Sunday, the place to be decided upon and chosen and made arrangements for by him and I.

Q. All right.

A. Which we did, on Saturday, I went to the Belden Hotel and made arrangements for a meeting place.

Q. Met at the Belden Hotel?

A. Yes, sir.

Q. Now, can you fix approximately the date of the meeting at the Belden Hotel?

A. Would be about the 19th, 18th or 19th.

Q. Of July?

A. July.

Q. Now, what was the date of the previous meeting?

A. The previous meeting was on Friday evening.

Q. All right, now, who came to the meeting or gathering at the Belden Hotel?

A. There was 36.

Q. How many men, first?

A. The latter part of your question?

Q. How many men came there, or gathered there?

A. There was 36 men. There was two men from South Division, I was one of them. The rest of them was from the Alloy and Stark Division.

Q. Well, do you know how the men who gathered there at the Belden Hotel had been selected or designated as the ones who should go there?

A. The ex-representatives, through Mr. Geltz, had been requested to come and bring other men, a man or two men from their different departments, to the meeting.

Q. About 36 gathered?

A. Well, 36.

Q. Can you give us any idea how many of that 36 had been former representatives under the E. R. P.?

A. I don't believe over ten or a dozen of them was

there.

Q. Was anybody chosen to preside at that meeting?

A. I was chosen to preside at that meeting.

Q. What happened at that meeting?

A. At that meeting we elected temporary officers. I was chosen temporary chairman and the men wanted me —made a motion to the effect that I select a chairman from the different divisions. I requested them to choose their men and I would approve them, which they did, five; one representing South, one Stark, one Alloy-A, one Alloy-B, and one the Furnace Division.

Q. Was there any secretary chosen, if you know?

A. Yes, Mr. Lilly was chosen as temporary secretary and Mr. Geltz was temporary treasurer.

Q. What day of the week was that?

A. Sunday.

Q. When, if at all, did you discuss the application cards or application for membership cards?

A. These five men representing the different divisions, secretary, and Mr. Frank Bow, an attorney, we met in the Belden Hotel on the Monday following.

Q. The next day?

A. Yes.

Q. Now, Frank Bow is a member of the Bar here in Canton?

A. Yes, sir, he was also present in our meeting or part of the time, on the Sunday previous.

Q. What, if anything, had Frank Bow to do with the injunction case that was filed here, Smith and somebody against certain parties?

A. He jointly with Mr. Unger was our attorneys.

Q. Now, at the meeting of the Monday after the Sunday, when Mr. Frank Bow was present, what was done?

A. We arrived at a name.

Q. What was your name?

A. Steel Workers Union of America. We also, with

the help of Mr. Bow, had our application card drawn up. Notices of our organization.

Q. Had your new union ever had or considered any other name than the Steel Workers of America?

A. Yes, there was several names considered and discussed there that evening.

Q. But none had been either definitely or tentatively agreed upon except this "Steel Workers?"

A. That was finally agreed on.

Q. All right. Well, were any application cards actually printed?

A. Yes, sir.

Q. Was anything else printed besides application cards?

A. Notices.

Q. Notices of what?

A. Of our forming of our organization, in placard form.

Q. Did I ask you who paid for the printing?

A. You did not.

Q. Well, I will ask you now, who paid for that printing?

A. I did, or rather the men through their initiation fee.

Q. Well, at that time was there an organization set up? Was the temporary organization or tentative organization set up?

A. Yes, temporary organization set up.

Q. And you told the officers, or some of them? Now, were there any other officers talked about at that meeting besides, I think you said somebody was temporary chairman and somebody was secretary?

A. Treasurer; and these five men from the five different divisions, which was chosen by the men present in the meeting, I presume.

Q. What were they called, anything?

A. Chairmen of their various divisions for organization purposes.

Q. Can you tell me who the chairmen of these various divisions were?

A. Yes, sir, Mr. Gene Rowland, South Division.

Q. What is his work?

A. He is in the laboratory, I couldn't—

Q. Laboratory?

A. Yes.

Q. All right, who else?

A. Mr. Alvin Booth, Stark Division. Mr. Joe Yuhos.

Q. What was Mr. Booth's job? What is his business?

A. He is a roller, sheet mill roller.

Q. Mr. Yuhos' job is what?

A. He is an annealer.

Q. Annealer?

A. Yes.

Q. All right.

A. Robert Guth.

Q. What was his position?

A. He is a heater in the 35 inch mill.

Q. All right, who else?

A. And Mr. Webster of the furnace division, William Webster.

Q. Yes?

A. But he has later been superseded by a Mr. Blair.

Q. Blair?

A. Yes.

Q. What is his job?

A. He is a rigger.

Q. So far as you know, have any of those men got any supervisory capacity?

A. No, sir.

TRIAL EXAMINER LINDSAY: I think we will have a short recess now.

MR. DAY: Thank you.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

Q. Have you with you any of the membership application cards that were printed?

A. I have.

Q. May we have one of them?

A. (The witness hands a card to Mr. Day.)

Q. Is this it?

A. Yes.

MR. DAY: May I have this marked as Respondent's Exhibit 22?

(Thereupon the document above referred to was marked as Respondent's Exhibit 22 for identification.)

Q. I hand you a card which has been marked as Respondent's Exhibit No. 22 for identification and ask you if that is one of the application membership cards that you had printed.

A. Yes, sir.

Q. You did?

A. Yes, sir.

MR. DAY: I would like to offer this in evidence in connection with the testimony of this witness.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 22 may be received in evidence.

(The document heretofore marked "Respondent's Exhibit No. 22" for identification, was received in evidence.)

Q. What if anything has been done with regard to circulating those cards for membership?

A. These five Chairmen of the different Divisions have circulated through the various workmen and signed up the members.

Q. Have you circulated some?

A. No, sir.

Q. Do you know where they have been circulated?

A. Yes, sir.

Q. Where were they circulated?

A. They were circulated in the South Division, in the Stark Division, Alloy, A, and Alloy, B, and Furnace Division.

Q. Now, those plants that you have designated, they are Republic Steel Corporation plants?

A. Yes, sir.

Q. And as Chairman of the new Union, have you been advised that they have been circulated right in the plant?

A. Yes.

Q. You say they have been circulated in those various plants. You mean on the Company property where the plants are?

A. Yes, the men have.

Q. Have you been advised whether or not some of those cards have been signed on the various Company properties that you have been told about?

A. It is hearsay to me.

Q. Have you been told that?

A. I have been told that, yes.

Q. As Chairman of the new Union?

A. Yes, sir.

Q. Have you any information as to the proportion or percentage of the total number of cards that have been signed and that have been circulated around the Company property or don't you know that?

A. No, I don't know.

Q. You haven't got with you one of those notices or placards that you referred to in your testimony?

A. No, but I have at home.

Q. Can you furnish us with one?

A. Yes.

Q. Do you know approximately how many application cards have been signed up?

A. Between 25 and 2700.

Q. Now, have you been advised to that effect?

A. Yes.

Q. And your answer is based on the information you have obtained, is that right?

A. Yes, sir.

Q. And that is in the plants that you have named?

A. Yes, sir.

Q. Who is eligible to membership in your new Union?

A. He must have to be an employee of the Republic Steel Corporation and not in a supervisory capacity; not a policeman which we barred.

Q. Then does it include office workers or not?

A. Office workers that are not in a supervisory capacity.

Q. They are eligible to membership?

A. Yes, sir.

Q. And policemen are not?

A. No, sir.

Q. And anyone in a supervisory capacity is not?

A. No.

Q. How do you classify a foreman with relation to supervisory capacity?

A. He cannot be a member.

Q. He can't be a member?

A. No.

Q. Well, do you know or can you give us some estimate based on your own personal knowledge as Chairman of this new Union how many men are eligible to belong to this new Union in these plants?

A. I believe there was 3900.

Q. Now, would they be considered eligible for membership?

A. Yes, but I don't believe our employment has as many men in the plant today as was before.

Q. And your estimate as to the number of members is from your own count?

A. No.

Q. So your estimate of members is not from your own count but from information that has been carried to you as Chairman?

A. Yes, sir.

Q. Now, what is provided in the way of payment of dues?

A. 50 cents dues a month.

Q. Any initiation?

A. A dollar initiation fee which includes your first month's dues.

Q. Now, based upon your own personal knowledge and information which has been carried to you as Chairman of the new Union, to what extent have the dues been paid?

A. Between thirteen and fourteen hundred has already paid.

Q. Is that based on information given you?

A. By our Treasurer on money in the bank.

Q. Not based on any knowledge of your own?

A. No.

Q. You have been telling us about some meetings that were held with this new organization. Have there been further meetings?

A. Yes.

Q. Has there ever been a meeting of the entire membership or the existing membership of the organization?

A. No, sir.

Q. How frequently did you hold meetings?

A. We have held meetings—we have been holding them. Two.

Q. Has the new Union any meeting place or what is generally known as a lodge room?

A. No.

Q. Where have you been holding those meetings?

A. Our meetings have been in the Belden Hotel;

several at my home.

Q. Has your constitution and by-laws or your book of regulations been completed yet?

A. We have a temporary set of by-laws subject to amendments. When our permanent organization is set up—

Q. Who prepared them?

A. Frank Bow, an attorney.

Q. That is the same Frank Bow, the lawyer, about whom you were talking a while ago?

A. Yes, sir, he is our legal advisor.

Q. Is he a lawyer now for your organization?

A. Yes, sir.

Q. So far as you know, is the Republic Steel Corporation or any of its supervisory officers or agents taken any part in the formation of your Union?

A. No, sir.

MR. DAY: I think that is all.

Cross Examination

Q. (By Mr. Lauter) Approximately how many meetings have been held of the Steel Workers Union of America?

A. We have held two meetings; the cross-section of the plant. The first one was 36 men. Following the first one it was 40 men.

Q. Those were all the meetings you have held thus far?

A. No, sir.

Q. What?

A. No, sir.

Q. How many meetings have you held?

A. The definite number I can't give you but approximately eight or ten meetings have been held.

Q. Where have they been held?

A. In the Belden Hotel and at my house.

Q. Minutes have been taken of those meetings?

A. Sir?

Q. Have minutes been taken of those meetings?

A. No, not in any degree.

Q. What do you mean, not in any degree?

A. Well, there is generally meetings that we had where our 36 men and 40 was, and our Secretary took minutes.

Q. Are those the only two meetings in which you took minutes of?

A. As far as I know.

Q. What is the name of the Secretary?

A. Wille.

Q. What was his position under the Employees Representative Plan?

A. He is Secretary; he is temporary Secretary.

Q. He held the same position under the Employees Representative Plan?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. As far as you know, he only has minutes of two meetings?

A. As far as I know, yes.

Q. Have you seen those minutes?

A. No.

MR. DAY: May I interrupt just a moment, Mr. Lauter?

MR. LAUTER: Yes.

(Discussion off the record.)

Q. (By Mr. Lauter) Now, you testified that at one meeting there were 36 men and that at another meeting there were 40 men, is that correct?

A. Yes, sir.

Q. Both of those meetings held at the Belden Hotel?

A. Yes, sir.

Q. What rooms were they held in?

A. They were held, I believe—I believe that one was in the Assembly Room on the 4th floor.

Q. Who paid for the cost?

A. We did.

Q. Who did?

A. We.

Q. How did you do it?

A. We took up a collection.

Q. At the meetings?

A. Yes, sir.

Q. What was the cost of those rooms, can you recollect?

A. Something around $18 or $20.

Q. You took up a collection among the 36 men and they paid for it?

A. Yes, sir.

Q. And then you took up a collection among the 40 men to pay for the rooms?

A. Yes, sir.

Q. Now, were there any other meetings at the Belden Hotel?

A. Yes, sir.

Q. How many more?

A. There weren't many more. They were not held in the same rooms. They were held in a smaller room.

Q. Did the hotel give you those rooms for nothing?

A. Yes, sir.

Q. Who made the arrangements with the hotel for the use of those rooms?

A. I did.

Q. Is that because you had taken space previously?

A. I don't know their reason for that.

Q. Did you ask them to give you those rooms for nothing?

A. No, sir.

Q. Or did you speak to someone about them?

A. The desk man; the manager.

Q. What did you say?

A. I asked him for the rooms. I told him how many men and how many rooms I wanted.

Q. What else?

A. He told me he would give me those rooms because we had business with him before.

Q. What business you had had, is that right?

A. Yes. If we bought a can of beer he possibly had a profit on it.

Q. And no minutes were taken of those meetings?

A. No.

Q. Now, at the first meeting of 36 men you testified there were about 10 or 12 who were former representatives, is that correct?

A. I wouldn't judge; possibly that number.

Q. You asked them to bring men they themselves selected to the meeting?

A. No.

Q. What instructions did you give to these men?

A. Mr. Geltz gave them instructions to gather them; the group.

Q. Did you say anything to Mr. Geltz as to whether or not they should bring men with them?

A. Yes, sir.

Q. What did you say to Mr. Geltz?

A. What?

Q. What did you say?

A. I suggested to Mr. Geltz that he contact the different representatives and they should request them to bring one or more men from the different departments.

Q. Did these representatives select men and bring them to the meeting?

A. Some of them did; they were there with them.

Q. Do you have any idea how many they brought with them?

A. No.

Q. Now, who else was present except the representatives and the men they brought with them?

A. Attorney Frank Bow.

Q. Is that the only other person?

A. Yes, sir.

Q. And that is all outside of the men that were brought there?

A. Yes, sir.

Q. Did that meeting authorize the attorney to be there?

A. The meeting had started and one of the men had called Attorney Bow to give us a talk on our injunction.

Q. Who was the man?

A. Mr. Lappin.

Q. Mr. Lappin?

A. Yes, sir.

Q. A former representative of the Plan?

A. Yes, sir.

Q. You testified that he was your legal advisor, this attorney, is that correct?

A. Yes.

Q. Who selected him to be your legal advisor?

A. I did.

Q. You alone?

A. Yes.

Q. Is that correct?

A. Yes.

Q. And you never referred to any of these meetings without authority, is that correct?

A. Yes.

Q. Has there been a Treasurer's report at any of these meetings?

A. No.

Q. Did you also have the membership cards printed yourself?

A. Yes, sir.

Q. Was the printing of these membership cards discussed at any of the meetings?

A. Yes, sir; at the meeting Monday evening following the meeting of the 36 men the cards was formed and discussed.

Q. Is that the meeting of 40 men?

A. No.

Q. Is that the meeting at your house?

A. No.

Q. Was that at the Belden Hotel?

A. Yes.

Q. How many men were present?

A. There was the five men; Mr. Reilly and Attorney Bow and myself.

Q. What five men are you referring to?

A. The five men; the Chairmen of the different Divisions.

Q. The men who had been elected or selected with your help?

A. Yes.

Q. Now, you said that the Steel Workers Union of America was the name that was selected, is that correct?

A. That is right.

Q. That was selected after their names—after other names had been suggested?

A. Yes.

Q. Was one of the other names the Independent Federation of Republic Employees?

A. No.

Q. You are sure it wasn't?

A. No.

Q. Well, do you recall?

A. Well, there was quite a few there; I am not sure about it.

Q. You are not sure about it?

A. No.

Q. Who decided what the initiation fee was to be?

A. That was decided at a meeting in Attorney Bow's office—

MR. LAUTER: Just a minute.

(Discussion off the record.)

MR. DAY: Will you read that answer?

(The last answer was read.)

A. (Continuing) This meeting at Attorney Bow's office.

MR. LAUTER: Will you read my question?

(The last question was read.)

A. They were there for the purpose—

Q. I am not interested in the purpose. Just answer the question without telling the purpose.

A. That was decided at Attorney Bow's office.

Q. Who was present at Attorney Bow's office?

A. A group of men; I presume possibly 12 or 14.

Q. Who were those men that had selected that?

A. Well, I had different ones to be there for the purpose of going over our temporary by-laws.

Q. Did those men include former representatives—

A. Some of them.

Q. —or men that they had selected?

A. That had been done when we organized the movement.

Q. I am asking you whether it included men from the representatives.

A. Yes.

Q. And those were the men who decided what the initiation fee was to be?

A. Yes.

Q. Now, these cards were circulated in the plant, is that correct?

A. Yes, sir.

Q. You so testified, didn't you?

A. Yes, sir.

Q. They were circulated on Company property on Company time, is that correct?

A. By men while they were in the plant.

Q. Is it correct or isn't it correct that they were circulated on Company property and on Company time?

A. When you are in the plant—

Q. Answer that question yes or no.

A. If that is Company time, yes. Then if a man is fixing—

Q. Is it?

A. If a man got his spell done and finished his job.

Q. During the 8 hours that he is working?

A. Yes, sir.

Q. And he takes around those cards?

A. Yes.

Q. But you didn't circulate any cards?

A. No.

Q. You are temporary Chairman of the organization?

A. Yes, sir.

Q. And you are interested in seeing the membership grow?

A. Yes, sir.

Q. But you didn't circulate any cards?

A. No, sir.

Q. (By Mr. Lauter) Now, there is an initiation fee of $1, is that correct?

A. That is correct.

Q. Does the employe become a member before he pays the initiation fee?

A. Yes, sir, if he signs up, up until the time that our permanent organization is completed.

Q. And there is somewhere between 1200 and 1300 persons who have signed up, but who haven't paid, is that correct?

A. Yes.

Q. What is the name of the treasurer?

A. Frank Geltz.

Q. And you have held no membership meetings, is that correct?

A. Not of the complete membership, no.

Q. Well, you have some 1300 or 1400 paid up members, is that correct?

A. Yes, sir.

Q. Paid up in the sense that they paid in $1?

A. Paid in $1.

Q. They have held no membership meetings?

A. No, sir.

Q. You testified that on a certain date in July a man named Reese, Kirkland, Deerer, Grah and others came to your house?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. Did you say that was July 20th?

A. No, that was earlier than that, that was the first meeting.

Q. What date did you say that was?

A. I didn't say the date.

Q. How close can you come to the date?

A. Well, the date was possibly the 13th or 14th or 15th, in there some place. It was on a Tuesday in the week previous to the 23rd, which was Friday.

Q. On the 13th or 14th, you think, is that correct?

A. I presume.

Q. Were you working in the mill at that time?

A. Yes, sir.

Q. You were back, actually working in the mill?

A. We were back actually at work, yes.

Q. The period when you had received $500 for not working in the mill had passed already, is that correct?

A. That had passed, yes, sir.

Q. You are the witness who did $500 from Republic Steel Corporation when you were not actually working in

e mill, aren't you?

A. How is that question again, please?

(The last question was read.)

A. I am.

Q. Did you have any conversation with these men be-re they came to your house on July 13th or 14th?

A. Yes, sir.

Q. When had you had a conversation with them prior that date?

A. At work.

Q. Is that while you were working in the mill?

A. Not while I was working, I couldn't talk while I am rking, but there is a lot of time I am not working, while am there.

Q. I asked you when it was.

A. While I was at the plant.

Q. You said while you were working, is that right?

A. At the plants, not while I was working.

Q. Where in the plant did you have discussion with em?

A. Well, what we call the standing, where my work around.

Q. Did these men come to you?

A. Came to me and I went to them.

Q. Did they come in a group or come individually?

A. Individually principally.

Q. Well, did they also come in a group?

A. Well, others come back at different times.

Q. I am asking you these particularly certain named lividuals?

A. They didn't all come at one time in one group.

Q. Did they at any time come together?

A. No.

Q. They came to you individually in the mill?

A. Individually.

Q. While you were at work, is that correct?

A. And I went to them.

Q. You went to them?

A. Yes.

Q. During working hours?

A. Yes.

Q. How often did they come to you and how often did you come to them, prior to July 13th or 14th?

A. I couldn't answer that question definitely.

Q. Well, now let's take them individually. You testified about a man named William Reese?

A. Yes, sir.

Q. And he was one of a group of men that came to your house on July 13th or 14th. Prior to that had you had conversations with him in the mill?

A. Yes, I had talked to him quite frequently.

Q. About this organization that was going to be formed?

A. We had talked this organization, the necessity of it, yes.

Q. That is right, that is what I am talking about.

A. For quite some time.

Q. For quite some time?

A. Yes.

Q. About how long, would you say?

A. Well—

Q. Two or three weeks? A month?

A. Yes, we talked that, we thought that for possibly a year or two, that we should be by ourselves down there, even under our representative plan.

Q. I am discussing whether or not you had conversations with him two or three weeks or a month prior to July 13th or 14th?

A. Not concerning this move, definite move that we are talking about here.

Q. Now, I will repeat my original question, did you have conversation with these men who came to you on July 13th and 14th, prior to that date, with respect to the forma-

tion of a new organization, Steel Workers Union of America?

A. Yes.

Q. Did you have conversations with these men approximately two or three or four weeks before that?

A. Not before we got back to work. Definitely. We wanted to do something.

MR. LAUTER: Read that question.

(Last question was read.)

A. We weren't back to work three weeks.

Q. What is that?

A. We were not back to work three weeks before that. We only went to work about the 1st of July, I believe, and this was—

Q. From the 1st of July on is when you had the conversations with these men in the mill?

A. Yes, we talked this matter among us.

Q. Had you had any conversation with these men before you went back into the mill?

A. Not on the organization.

Q. You had spoken to them for about a year, hadn't you?

A. Oh, about that we needed it, yes. We thought we needed something. Even our Representative Plan, we felt we should be divorced from the other group over here, due to our isolated—isolated geographically from where they are, four or five miles.

Q. Did you speak to these men during the period that you were at the Belden Hotel?

A. Yes.

Q. Did you speak to them—

A. Which period do you have in mind here? Now, I was there different periods.

Q. During the time you were getting $500?

A. No.

Q. You didn't speak to them during that period?

A. No.

Q. You didn't speak to a single one of them?

A. I spoke to them but not on this issue, that I can recollect.

Q. If they raised this issue, you stopped talking?

A. No.

Q. They didn't raise the issue?

A. Not to the best of my knowledge.

Q. Not a word said about it?

A. No.

Q. During that five weeks they forgot all about it?

A. They had other things—

Q. Is that right?

A. As far as I know.

MR. DAY: He didn't testify he forgot about it.

MR. LAUTER: I will withdraw that.

Q. Did they say nothing at all about this during the five weeks?

A. Not to the best of my knowledge.

Q. Did they know you were getting paid at that time?

A. No.

Q. Now, when they came to you on July 13th or 14th, did they call before they came?

A. I invited them to my home.

Q. You invited them to your home? At that time they said that they wanted to form an organization for collective bargaining with our employers, is that correct?

A. Yes.

Q. Is that what they said to you?

A. That was the thought we discussed among us.

Q. What is that?

A. That was discussion among us.

MR. LAUTER: I move the answer be stricken.

Q. (By Mr. Lauter) I am asking what they said to you. Did they say that?

TRIAL EXAMINER LINDSAY: Yes, the answer

is stricken out. Let the record show an exception.

A. Well, our talk was on the procedure of forming an organization.

MR. LAUTER: I ask that the answer be stricken.

Q. I am asking you whether or not they said that? Now, you testified on direct examination "They did". I want to know whether they said it or did not say it?

TRIAL EXAMINER LINDSAY: Yes, answer the question. Strike out the previous answer, let the record show an exception.

A. Yes, they said it.

Q. (By Mr. Lauter) Who said it?

A. Well, the various men that was there, that that was the purpose.

Q. Each one of them?

A. Well, I wouldn't say they all was aggressive.

Q. How many of them said that?

A. I couldn't name that number.

Q. One? Did one person say it?

A. At least one. We had to have two to carry on a conversation, it takes two.

Q. At least one said that, is that right?

A. Yes.

Q. Did they suggest those words, that you form an organization for collective bargaining with our employer?

A. Possibly not in them words.

Q. No?

A. Exactly.

Q. Not in those words? That is the substance of it. is that right?

A. That is the substance of it.

Q. Can you think of the person that said that in substance?

A. Yes, sir.

Q. What is their name?

A. Well, I can't recall the name.

Q. Can't recall the name of the person who said that? Do you recall how long they were there?

A. Two or three hours.

Q. But you can't recall a certain person who said that they wanted to form an organization for collective bargaining with our employer, is that correct?

A. Not in them words, no.

Q. In substance?

A. In substance, no.

Q. You can't recall a single person who said that?

A. I can't say definitely who. We carried a conversation, discussion—

Q. You can't remember, is that correct?

A. Well, I can remember it, but if I knew this was up, I would have had minutes taken of it.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: Well, now, we will adjourn until 7 o'clock this evening.

(Thereupon, at 4:45 o'clock p. m., a recess was taken until 7 o'clock p. m. September 15, 1937.)

After Recess

(Whereupon, the hearing was resumed, pursuant to recess, at 7:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

JOHN C. MORGAN

a witness heretofore called by and on behalf of the Respondent, was recalled for further examination and testified further as follows:

Direct Examination (Continued)

Q. (By Mr. Day) State your name, please.

A. John C. Morgan.

Q. Now, talk up a little louder, please.

A. Yes.

Q. Where do you live?

A. 673 Third Street, Massillon.

Q. What is your business?

A. Railroad.

Q. And you work for what company?

A. Republic Steel Company.

Q. How long have you worked for the Corporation?

A. Well, I worked for the old Central Steel; I have been about 15 years.

Q. Did you sign the petition to return to work at the Massillon plant?

A. Yes, sir.

Q. After the strike was called?

A. Yes, sir.

Q. Where did you sign the petition to return to work?

A. Chamber of Commerce Hall.

Q. State whether or not you signed that petition of your own free will.

A. I did.

MR. LAUTER: I object to the question and move that the answer be stricken from the record; it calls for a conclusion and the state of mind of the witness.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign a petition to return to work.

A. Well, I seen a notice in the paper that they were going to sign up and go back to work, to return to work at Massillon, Ohio, and I went and signed up.

Q. State whether or not you were influenced in any way whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: Will you read that question?

(The last question was read.)

Q. Answer that.

A. No, sir.

MR. LAUTER: I will object to the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer may be stricken.

MR. DAY: Exception. May he answer tentatively?

TRIAL EXAMINER LINDSAY: Yes; his answer is in.

Q. Answer the question.

A. No.

Q. Do you remember when the strike was called at Massillon on May 25th last?

A. Yes, sir.

Q. State whether or not you wished to continue at work.

A. I did.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. Are you a member of the Independent Association of Republic Employees at Massillon, Ohio?

A. Yes, sir, I am.

Q. Did you sign an application card for membership in that Independent Association of Republic Employees?

A. I did.

Q. Where did you sign that?

A. At home.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Emlpoyees of your own free will.

A. I sure did.

MR. LAUTER: I object to that question and move that it be stricken.

TRIAL EXAMINER LINDSAY: I will sustain that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. Well, everybody else was signing up so I just signed my card.

Q. State whether or not anybody asked you to sign the application card.

A. No, sir, they didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Association for Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the form of the question and ask that it be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception. That is all the questioning.

(Discussion off the record.)

Cross Examination

Q. (By Mr. Lauter) Mr. Morgan, when did you sign the card for the Independent Association for Republic Employees?

A. Well, I couldn't say just what date I signed it on.

Q. What month was it?

A. It was in July.

Q. July?

A. Yes.

Q. At that time did you pay initiation fees?

A. Yes.

Q. How much did you pay?

A. A dollar.

Q. Where did you sign the card?

A. At home.

Q. Where did you get the card?

A. I got the card from Mr. Burkhart.

Q. Mr. Burkhart?

A. Yes.

Q. Is he a former representative under the Employees Representative Plan?

A. No, he is just a railroad man.

Q. What?

A. No, he is just a railroad man.

Q. A railroad man?

A. Yes, sir.

Q. In the plant?

A. Yes.

Q. Do you know whether or not he was a representative under the Employees Representation Plan?

A. I think he was.

Q. He gave you a card?

A. Yes, sir.

Q. And you signed the card?

A. I signed the card.

Q. Where did you hand it back to him?
A. I took it down to him personally.
Q. You took it down to him personally?
A. Yes, sir.
Q. Is that at the plant?
A. Yes, sir.
Q. During working hours?
A. Well, I was coming to work.
Q. Did you actually give him a dollar and the card there during working hours?
A. Yes, sir.
Q. Now, have there been any meetings of the Independent Association for Republic Employees?
A. Yes, sir.
Q. Did you attend any of them?
A. Yes, sir; above the Arcade Market in Massillon.
Q. Is that outside of the plant property?
A. Yes, sir.
Q. Do you know whether or not the first meeting was held in the time shop on plant property?
A. I don't know.
Q. You don't know about it?
A. No.
Q. What?
A. I don't believe so.
Q. Do you know whether or not it was held there?
A. No, I don't.
Q. You don't know?
A. No.
Q. (By Mr. Lauter) Now, since July have you paid any dues into the organization?
A. Yes.
Q. What is that?
A. I did.
Q. How much dues did you pay?

A. I paid 50 cents, and then I paid $1.00, and I am paid up to next month, yet.

Q. Are you paid up through September or October?

A. October.

Q. You are paid up through October?

A. Yes, sir, I paid $2 altogether.

Q. Where did you pay the balance of the money?

A. Down in the hall.

Q. Have you voted for any offices in the Independent Association?

A. Yes, sir.

Q. What offices did you vote for?

A. I voted for the men in our department.

Q. And where was that meeting held?

A. That was held down in the hall.

Q. Do you remember when that was held?

A. No, I couldn't just say, but it was this last week one evening, Tuesday night, I think.

Q. Where did you receive notice that meeting was going to be held last Tuesday night?

A. Well, they had notices up down there.

Q. Down where?

A. Down in the mill.

Q. Down in the mill?

A. That our department would have a meeting.

Q. Where was that notice posted?

A. Why, in our shanty, railroad shanty; switchman's shanty.

MR. LAUTER: May I speak to you, Mr. Day?

MR. DAY: Certainly.

(Consultation held with the Trial Examiner.)

Q. (By Mr. Lauter) A number of questions were asked of you on direct examination by Mr. Day. Now, has a form been sent out to you incorporating in substance those questions?

A. No, sir.

Q. What is that?

A. No, sir.

Q. Do you understand my question?

A. No, I didn't understand it.

Q. Well, then don't answer the question until you understand.

MR. LAUTER: Read the question back to the witness.

(The question read by the Reporter.)

A. No, not that I know of.

Q. Have you ever seen a mimeographed sheet?

A. No.

Q. Which was circulated in the plant, containing in substance the questions which Mr. Day asked you on direct examination, and which you signed your own name to?

A. No, I didn't see any of those, the only thing I signed my name to was the card.

MR. DAY: Step up here a minute.

(Discussion held off the record.)

Q. (By Mr. Lauter) Were you asked at any time, at the plant of the Republic Steel Corporation, in substance, the questions that Mr. Day asked you on direct examination?

A. No, sir.

Q. Do you know Mr. Paul Blantz?

A. I know him, yes.

Q. Did he call you into his office or into an office at Republic Steel Corporation and ask you a number of questions?

A. No, sir.

MR. DAY: Wait a minute. Let's find out who did question him.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

MR. DAY: Mr. Coldren did.

Q. (By Mr. Lauter) Did Mr. Coldren call you into the office and ask you a number of questions?

A. Well, they sent me up there and that man was in the office.

Q. Do you know his name now? Mr. Coldren?

A. Yes, sir.

Q. Is that the man, sitting at the counsel table?

A. Yes, sir, I know him now, yes.

Q. For the Republic?

A. I know him.

Q. Did he propound a number of questions to you from a mimeographed sheet?

A. He had that lying there and he asked me questions and I just told him.

Q. Now, were those questions in substance the questions that Mr. Day asked you while you were on the witness stand this evening?

A. Yes, sir.

MR. LAUTER: That's all.

MR. DAY: That's all. Now, your Honor, I would like to have the Stenographer transcribe those questions for me so I can put the same questions to the next witness.

TRIAL EXAMINER LINDSAY: All right, then we will stop right now, and you write them up.

MR. DAY: And bring them right back.

(Witness excused.)

MARK H. REAM

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?

A. Frank H. Ream.

Q. Where do you live?

A. 517 Harvard, Massillon.

Q. Where do you work?

A. Republic Steel Corporation.

Q. In what department?

A. Inspection department.

Q. How long have you worked there?

A. About ten years.

Q. Did you sign a petition to return to work at the Massillon plant after the strike was called?

A. Yes, sir.

Q. Where did you sign this petition to return to work?

A. In the Chamber of Commerce office.

Q. State whether or not you signed this petition of your own free will?

A. I did.

MR. LAUTER: Object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign this petition to return to work?

A. I noticed the notice in the paper and I went down the following morning and went up and signed the petition after I read the petition over.

Q. State whether or not you were influenced in any manner whatsoever—

A. No, sir.

Q. Wait a minute—in signing the petition to return to work at Massillon, Ohio, by anything that was said or done by Republic Steel Corporation or any of its officers or agents?

A. I was not.

MR. LAUTER: I object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain that objection. The answer may be stricken and let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you signed the petition to return to work at the Massillon plant of your own free will?

A. I did.

MR. LAUTER: I object to the form of the question and move the answer be stricken out.

(The question read by the Reporter.)

MR. DAY: Now, that is in there once before, and ought to be withdrawn. Strike that one out.

TRIAL EXAMINER LINDSAY: Yes, that is stricken by consent.

MR. DAY: By consent, yes, sir.

Q. (By Mr. Day) Do you remember when a strike was called at Massillon when you worked there on May 25th last?

A. Yes, sir.

Q. State whether or not you wished to go out on strike?

A. I did not.

Q. State whether or not you wished to continue to work?

A. I did.

Q. Are you a member of the Independent Association of Republic Employees?

A. I am.

Q. Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership in that association of Republic Employees?

A. Yes, sir.

Q. Where did you sign that application?

A. In the plant.

Q. Card?

A. In the plant.

Q. Whereabouts in the plant?

A. Well, it was around the 18 inch mill.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Employees of your own free will?

A. I did.

MR. LAUTER: Object to the form of the question and ask the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken from the record; show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees?

A. Well, I figured it was a good organization.

MR. LAUTER: Object to what the witness figured; move it be stricken.

TRIAL EXAMINER LINDSAY: Yes, that part is stricken. Let the record show an exception.

MR. DAY: Exception.

A. I signed the card and handed it back to him after I read it over.

Q. Why did you do it?

A. My own free will.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, it is not responsive, the answer may be stricken out. Let the record show an exception.

MR. DAY: Exception. Read him the question, will you please?

(The last question read by the Reporter.)

Q. The question is, state how you came to sign the application card for membership in the Independent Association of Republic Employees? Don't give a conclusion. How did you come to do it?

A. Well, the card was handed to me and I read it over and signed it and handed it back. Is that what you want?

Q. State whether or not anybody asked you to sign the application card?

A. John Walsh.

Q. Who is John Walsh?

A. He is an inspector there on the 18 inch mill.

Q. State whether or not, in the signing of the application card for membership in the Independent Association of Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by Republic Steel Corporation or by any of its officers or agents?

A. I was not.

MR. LAUTER: Object to the form of the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained and the answer may be stricken from the record. Show an exception.

MR. DAY: Exception.

Q. Do you know Mr. Coldren, sitting here?

A. Yes, sir.

Q. I will ask you whether or not you were called into the office in Massillon and whether or not Mr. Coldren then asked you in substance the questions I am asking you?

A. He did.

MR. DAY: Now when I say that, Mr. Trial Examiner, I do not mean that he asked every one of them, but he asked in substance the questions. That is all.

Cross Examination

Q. (By Mr. Lauter) You were handed a card by John Walsh, an inspector? That is a card in the Independent Association of Republic Employees?

A. Yes, sir.

Q. Was that in the plant during working hours?

A. Yes, sir.

Q. Have you paid the dues into the Independent Association?

A. The initiation fees and the first month.

Q. Did you attend any of the meetings?

A. No, sir.

Q. At the time you were handed the card what did Mr. John Walsh say to you?

A. He just handed me the card and I read it over and I seen that it was headed as an Independent Employees Association, so I—

Q. I am asking you what he said to you?

A. He just handed me the card.

Q. Said nothing?

A. Nothing.

Q. He said nothing about how much it cost?

A. Well, at the time, no.

Q. He said nothing to you?

A. No, sir.

Q. Did you see him again after that?

A. Why, I saw him every day.

Q. Did you see him again after that with respect to these cards, the cards that he handed you?

A. Do you mean after I signed it?

Q. That is right, did you sign it when he handed you the card?

A. Yes, sir, I handed it right away and handed it back to him.

Q. He handed you the card and said nothing to you?

A. I read that card, signed it and handed it back to him.

Q. Is he your inspector?

A. He is an inspector, yes.

Q. In your department?

A. Not in my department. In the department I work.

Q. In the department that you work?

A. Yes, sir, we both work in the same department.

Q. Are you also an inspector?

A. Yes, sir.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

ALVIN GARBER

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Alvin Garber.

Q. Where do you live, Mr. Garber?

A. R. D. 2, Massillon.

Q. Where do you work?

A. Republic Steel.

Q. In what capacity?

A. Weigh man.

Q. How long have you worked for Republic?

A. Four years.

Q. Did you sign a Back-to-Work petition at the Massillon plant after the strike was called?

A. I did.

Q. Where did you sign the petition to return to work?

A. Chamber of Commerce Hall.

Q. State whether or not you signed that petition of your own free will.

A. I did.

MR. LAUTER: I object to the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the petition to return to work.

A. I was told in the newspaper and went down to sign it.

Q. State whether or not you were influenced in any manner whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at the Massillon plant on May 25th last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. State whether or not you wished to stay at work.

A. I did.

Q. Are you a member of the Independent Association of Republic Employees at Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership

in the Independent Association of Republic Employees at Massillon, Ohio?

A. I did.

Q. Where did you sign the application card?

A. In the mill.

Q. Whereabouts in the mill?

A. In the shipping department.

Q. State whether or not you signed the application card for membership in the Independent Association of Republic Employees of your own free will.

A. I did.

MR. LAUTER: I object to the form of the question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. I was handed the card and looked it over and signed it and returned it later.

Q. State whether or not anybody asked you to sign the application card.

A. Yes, sir.

Q. Who asked you?

A. Ray Stevens.

Q. Who is he?

A. One of the boys that works with me.

Q. State whether or not in the signing of that application card for membership in the Independent Association of Republic Employees you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or by any of its officers or agents.

A. No, I was not.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you know Mr. Coldren sitting here at our table (indicating)?

A. Yes, sir.

Q. I will ask you whether you recall on the 9th of September, a short time ago, being called into the office at Massillon and being asked certain questions by Mr. Coldren, and giving certain answers.

A. I do.

Q. And were those questions substantially the questions I have propounded to you?

A. They were.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Who is Mr. Ray Stevens?

A. Boy that works with me in the shipping department.

Q. What is his position?

A. Crater.

Q. What?

A. Crater.

Q. And did he ask you to sign the card?

A. He handed me a card and asked me to sign it.

Q. Is that at the plant during working hours?

A. Yes, sir.

Q. Did you pay any dues into the organization?

A. Not yet.

Q. How is that?

A. Not yet.

Q. When did you sign the card?

A. Sometime in July, right after I went back to work.

Q. You have not paid either initiation dues or any other dues of any kind?

A. Not yet.

Q. Attended any meetings?

A. One.

Q. Where was that meeting held?

A. In the Arcade Market Building, Massillon.

Q. Do you know whether or not a meeting was held at the plant?

A. Never heard of any.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

LEO P. DONANT

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Leo P. Donant.

Q. Where do you live, sir?

A. 47 Third Street, Massillon.

Q. Massillon?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel.

Q. How long have you worked there?

A. Two years.

Q. What is your job there?

A. Warehouse stoker.

Q. Did you sign an application to return to work at the Massillon plant?

A. I did.

Q. Where did you sign the application to return to work?

A. Chamber of Commerce office.

Q. State whether or not you signed that application of your own free will.

A. I did.

MR. LAUTER: I want to object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application to return to work.

A. I was downtown the morning they started to sign up at the Chamber of Commerce office, and I inquired about what was going on, and when one of the men notified me they was signing up, so I went up and signed.

Q. State whether or not you were influenced in any way whatsoever in the signing of the petition to return to work at Massillon, Ohio, by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: I object to the question and ask that the answer be stricken out.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at Massillon on May 25th last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I did not.

Q. State whether or not you wished to stay at work.

A. I did.

Q. Are you a member of the Independent Association of Republic Steel Employees at Massillon, Ohio?

A. Yes, sir.

Q. Did you sign an application card for membership in that Independent Association of Republic Employees?

A. I did.

Q. Where did you sign the application card?

A. In the plant.

Q. Whereabouts in the plant?

A. In the shipping department.

Q. State whether or not you signed that application for membership in the Independent Association of Republic Employees of your own free will.

A. I did.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. Sir?

Q. State how you came to sign the application card for membership in the Independent Association of Republic Employees.

A. I was—it was handed to me.

Q. By whom?

A. By Mr. Miller.

Q. Who is he?

A. A car locker.

Q. State whether or not anybody asked you to sign the application card.

A. They didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Association of Republic Employees at Massillon, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the form of the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. The answer may be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you know Al Blantz?

A. I do.

Q. I will ask you whether or not a few days ago you remember being called into the office and some questions being asked you.

A. Yes, sir.

Q. And were those questions in substance the questions I put to you?

A. Yes.

MR. DAY: I make the statement, Mr. Trial Examiner, in connection with these questions, as you know, that all of the questions in detail were not propounded to the persons and I want that understood when I asked this person.

TRIAL EXAMINER LINDSAY: But they were in substance?

MR. DAY: Yes; you have seen them.

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Do you know what Mr. Blantz's position is in the mill?

A. Yes, sir.

Q. What is it?

A. Safety man.

Q. Safety man?

A. Yes, sir.

Q. And prior to your signing the Back-to-Work Petition did you speak to any foreman?

A. I did not.

Q. Or any other official of the company?

A. No, sir.

Q. When you were handed a card for the Independent Association of Republic Employees, were you asked to sign it?

A. I was.

Q. What was the name of the man who asked you?

A. Read the question please?

(The last question read by the Reporter.)

A. I was not.

Q. Who handed it to you?

A. Mr. Miller.

Q. Who is Mr. Miller?

A. A car blocker.

Q. Is he an employee in your department?

A. No, sir, he is in the finishing department. He is practically in the same department.

Q. Were you handed that card on company property, during working hours?

A. I was.

Q. Do you know whether or not similar cards were handed to other employees?

A. To my knowledge they were, yes.

Q. How many employees were handed similar cards during working hours at the plant?

A. Well, offhand I don't know how many.
Q. Well, approximately how many?
A. Well, I only saw three or four, probably six.
Q. Were all of the men in your department handed cards?
A. Yes, sir.
Q. How many in your department?
A. Well, on our turn there is 12.
Q. 12?
A. At that particular time there were.
Q. And did Mr. Miller hand them all cards?
A. Well, I don't know, I know that somebody handed them cards. I didn't see him hand them cards, only three of them.
Q. But you saw later that all of them received cards or were handed cards, is that correct?
A. Yes, sir.
Q. During working hours?
A. Yes, sir.
Q. When you shake your head they can't get the answer.

MR. LAUTER: Did you get the answer to those questions, Mr. Reporter?

(The record read by the Reporter.)

(Consultation held off the record.)

TRIAL EXAMINER LINDSAY: That is all.

(Witness excused.)

RAY STEVENS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?
A. Ray Stevens.
Q. Where do you live?

A. 320 15th Street, S. W., Massillon, Ohio.

Q. What is your business?

A. Crater.

Q. And you worked where?

A. Republic Steel.

Q. How long have you worked there?

A. Four years the 18th day of last June.

Q. Did you sign a petition to return to work at the Massillon plant after the strike was called?

A. I did.

Q. Where did you sign the petition to return to work?

A. At the Chamber of Commerce Hall.

Q. State whether or not you signed the petition to return to work of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: At this time, if it please, Mr. Examiner, I want to object to this line of inquiry for the following reasons: This witness is the fifth witness that has been asked substantially the same questions and the four that preceded him. First I want to state that I think it is entirely incompetent, irrelevant and immaterial as to why this particular witness stayed at work, and whether they wanted to; and also that it is incompetent, irrelevant and immaterial as to whether or not they wanted to go on strike on May 25th; and further I want to object to the whole line of inquiry to the entire series of questions that is being asked this witness on the ground that it is incompetent, irrelevant and immaterial.

During the course of the Board's case and on cross-examination the witnesses for the Respondent, facts have been developed which show concrete evidence and specific instances of instructions to employees of the Republic Steel Corporation ordering them to be at work at a particular time; and in one instance on the cross-examination of one of the witnesses for the Respondent there was elicited testimony that a foreman ordered at least five of the employees of the Respondent, pursuant to instructions, from his general superintendent, to quote this foreman: "To be at work at the plant at 9 o'clock on May 25th."

Now, further, in connection with this objection to the line of inquiry that is being pursued by counsel for the Respondent I want to state that on Page 3322 of the record during the testimony of one William Norris—the—

TRIAL EXAMINER LINDSAY: The record of what date?

MR. LAUTER: The record of September 8th, 1937.

In response to a question the witness testified that if you wanted to go back to work you would have to sign up one of the Back-to-Work petitions. Now in answer to these specific acts and specific cases that are of ordering men to report to work or ordering them to sign Back-to-Work petitions, there has been no defense testimony, instead, counsel for the Respondent Company has offered to show that their employees of the Respondent were neither ordered to report back at a particular time or were not influenced in any way in signing Back-to-Work petitions.

Briefly stated, it seems to me, and I urge my objection on these grounds: That for the—if it is shown in the record that Employees A, B and C have been induced by Foremen X, Y and Z that they are to report

for work or to sign Back-to-Work petitions, it is no defense to show that they are employees of the Respondent, and have neither been influenced in any way to report to work, to sign Back-to-Work petitions, or ordered to work.

I want to object on the further ground that the testimony of this witness would only tend to be cumulative. There has been already four witnesses testified about identically the same facts or substantially the same questions.

MR. DAY: I want to say at this time that we expect to call, upon the same subject matter as is involved in the testimony given by the witnesses tonight, and in the proffered testimony by this witness, substantially 2000 or more witnesses, employees of the Republic Steel Corporation at its Massillon plant, whose testimony will be similar and practically identical with that already given, and in legal fact and evidentiary purport, the same as the evidence already given.

MR. LAUTER: In view of Mr. Day's statement as counsel for respondent company, I want to renew my motions which I have previously made, and particularly addressing myself at this time to the cumulative effect of the testimony which he purports to introduce.

TRIAL EXAMINER LINDSAY: In view of the reasons advanced by Mr. Lauter, Attorney for the Board, and further because of the statements made by counsel representing the Respondent, that he states that he intends to call over 2000 witnesses, who will testify in substance as the four witnesses who have been put on the witness stand this evening, I will sustain the objection to further testimony being offered on those particular points brought out by the four preceding witnesses, for the reason it would serve no purpose, and I feel is not a direct defense to specific in-

stances of witnesses who have testified both on direct and on cross examination that they were asked to sign the petition to go back to work. And the mere fact of bringing a great number of witnesses to testify that they themselves were not asked to sign the petition to go back to work, or the card to become a member of the new Union, is not meeting the evidence established in the case both by direct examination and cross examination of specific instances as above stated. For the further reason that the testimony would serve no purpose other than being cumulative, and would consume a great deal of unnecessary time with no purpose to be served thereby.

The objection made by Mr. Lauter and the ruling of the Trial Examiner on that objection and motion is in effect a ruling only on the hearing pertaining to the Massillon part of the case.

MR. DAY: Inasmuch as we have in the courtroom now some witnesses from the Canton plant whom we desire to offer upon the same subject, we would appreciate it if the Trial Examiner would permit us to make our offer to prove with relation to the Massillon testimony tomorrow morning, and at the same time state in the record why we believe this evidence is relevant and material and should be received.

TRIAL EXAMINER LINDSAY: Well, you have already stated that.

MR. DAY: No, I haven't stated that. I should like to make a statement on that in the morning after my Canton witnesses are passed on.

TRIAL EXAMINER LINDSAY: Well, this is entirely off the record.

(Discussion held off the record.)

MR. DAY: I will state now, if I may—

TRIAL EXAMINER LINDSAY: I shall take no advantage.

MR. DAY: May I make that statement in the morning, as to both Canton and Massillon witnesses?

TRIAL EXAMINER LINDSAY: Oh, yes, it is not necessary to go in the record.

MR. DAY: As to why I think it should be received. Then I guess you had better step down.

(Witness excused.)

(Thereupon the ruling of the Trial Examiner was read by the Reporter.)

MR. DAY: I would like to note an exception at this time to the action of the Trial Examiner in striking out the testimony of the four witnesses who have just—

TRIAL EXAMINER LINDSAY: Wait a minute, I haven't struck out any testimony.

MR. DAY: I would like to note an exception at this time to the action of the Trial Examiner in refusing to the Respondent the right to call further witnesses in its behalf to testify to the same effect as have testified the four witnesses who have already taken the stand.

Now, if you will step up.

(Consultation held with Trial Examiner off the record.)

(Thereupon the record was read by the Reporter.)

TRIAL EXAMINER LINDSAY: It is agreed here that if there is any error, here, that we will all agree to correct it.

MR. DAY: Absolutely.

TRIAL EXAMINER LINDSAY: Is that right?

MR. DAY: Yes, sir.

TRIAL EXAMINER LINDSAY: All right, now you may proceed.

HOWARD GRAU

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.
A. Howard Grau.
Q. Where do you live?
A. 3048 Grovewood, S. W., Canton.
Q. What is your business?
A. I work for Republic Steel.
Q. In what capacity?
A. Warehouse.
Q. Were you working there the 25th of May last?
A. Yes, sir.
Q. When the strike was called?
A. Yes, sir.
Q. State whether or not you wished to go out on the strike when it was called?
A. I did not.

MR. LAUTER: Object on the ground, incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: That objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) State whether or not you wished to remain at work?
A. I did.

MR. LAUTER: Object to that question on the ground incompetent, irrelevant, and immaterial

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Did you sign an application card for membership in the Steel Workers of America at the Canton plant?
A. Yes, I did.

Q. Where did you sign that application?

A. I signed it in the warehouse.

Q. State whether or not you signed the application card for membership in the Steel Workers Union of America, Canton plant, Republic Steel Corporation, of your own free will?

A. Yes, I did.

MR. LAUTER: Object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception, and the answer may be stricken.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Steel Workers Union of America, Canton plant of the Republic Steel Corporation?

A. Well, a few of us got together and decided we needed an organization of some kind.

MR. LAUTER: Object to what they decided they needed.

MR. DAY: Why did you do it?

TRIAL EXAMINER LINDSAY: Just tell why you signed it.

Q. (By Mr. Day) How did you come to sign it, never mind the rest of them, how did you come to sign it?

A. I was—

MR. LAUTER: May I have a ruling on my objection?

TRIAL EXAMINER LINDSAY: That may go out by consent.

Q. (By Mr. Day) The question is, state how you came to sign the application card for membership in the Steel Workers Union of America?

A. I received a card to this, an application card and signed it and returned it.

Q. How did you come to sign it?

A. Well, we—

Q. No, just what you did? Not what somebody else did.

A. I thought it was—

MR. LAUTER: I object to what the witness thought.

Q. (By Mr. Day) Well, you can state what you believed. The question is, how did you come to sign it? Answer it in your own way.

A. Well, I received a card and talked it over with a few fellows and thought it was a good idea and we needed—

MR. LAUTER: Object to what the witness thought.

MR. DAY: I think he may tell what he thought, they have asked him why he did something.

TRIAL EXAMINER LINDSAY: Yes, I will overrule your objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. (By Mr. Day) Go ahead.

A. So we discussed it with several of them and I signed the card.

Q. Did I ask you if you signed that card of your own free will, or not?

TRIAL EXAMINER LINDSAY: Yes, he did.

MR. DAY: The application card for membership in the union?

TRIAL EXAMINER LINDSAY: I am not so certain about it, but you did the first one.

(Record read by the Reporter.)

MR. DAY: Very well.

Q. (By Mr. Day) State whether or not, in signing the application card for membership in the Steel Workers Union of America, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its agents or officers?

A. I was not.

MR. LAUTER: I object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, that objection is sustained and let the record show that the answer is stricken out; and let the record show an exception.

MR. DAY: Exception. That is all—By the way, wait a minute:

Q. (By Mr. Day) Were some questions substantially similar to those I have asked you, propounded to you today in the office of Lynch, Day, Pontius & Lynch?

A. Yes, sir.

Q. And do you know who asked those questions?

A. No, I don't know his name.

Q. But anyway, it was done in the law office today?

A. That is right.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Who handed you the card to the Steel Workers Union of America?

A. John Rowland.

Q. What is that?

A. John Rowland.

Q. What is his position in the mill?

A. He is a metallurgist, I believe.

Q. When did he hand you the card?

A. He handed me the card during working hours. I don't know just the exact date.

Q. During working hours in the plant?

A. Yes, sir.

Q. How long ago?

A. Oh, about a month ago.

Q. Did you sign the card?

A. Yes, sir.

Q. Did you pay any initiation fee?
A. No, sir.
Q. Any dues?
A. No.
Q. Attend any meetings?
A. No.
Q. Do you know whether other employees were handed cards by the same John Rowland?
A. Yes, sir.
Q. Were all of the employees in your department handed cards?
A. Yes.
Q. During working hours in the plant?
A. Yes.
Q. Do you know whether any of them have paid any initiation fees or dues?
A. Yes.
Q. Some have?
A. Yes.
Q. Do you know where the first meeting was held?
A. I don't know, no.
Q. Do you know whether any meetings have been held in the plant during working hours?
A. No, there wasn't any meetings held.
Q. Do you know, or don't you know?
A. I do.
Q. You do know that there were no meetings held in the plant?
A. Yes, sir.
MR. LAUTER: That's all.
MR. DAY: That's all.
(Witness excused.)

PAUL R. SMITH

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name?
A. Paul R. Smith.
Q. Where do you live, Mr. Smith?
A. 1409 Arnold Avenue, Canton.
Q. What is your business?
A. Work for Republic Steel Corporation.
Q. In what capacity?
A. Blooming mill, shear man
Q. How long have you worked for them?
A. A little over 11 years.
Q. At Canton?
A. At Canton.
Q. Do you recall when a strike was called at the Canton plant, Republic Steel Corporation, about May 25th, last?
A. I do.
Q. State whether or not at that time you wished to go out on a strike?
A. I did not.
Q. State whether or not you wished to continue to work?
A. I did.

MR. LAUTER: Object to both questions and move that the answers be stricken on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

Q. Are you a member of the Steel Workers Union of America, Canton plant?
A. I am.
Q. Republic Steel Corporation?
A. I am.
Q. Did you sign an application card for membership in that organization?
A. I did.
Q. Where did you sign it?

A. In the plant.

Q. State whether or not you signed that application card for membership in that organization of your own free will?

A. I did.

MR. LAUTER: Object to that question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: That objection is sustained. The answer is stricken and let the record show an exception.

MR. DAY: Exception.

Q. (By Mr. Day) State how you came to sign the application for membership in that organization?

A. Well, the card was given to me and I felt the need of some such organization, especially a local organization, so I signed the card.

MR. LAUTER: Object to the witness' statement about what he felt the need of.

MR. DAY: The question is how he came to do it.

TRIAL EXAMINER LINDSAY: What is that?

MR. DAY: The question is, how he came to do it.

TRIAL EXAMINER LINDSAY: That is not what you meant, when you asked, but it is immaterial. I will let that stand. Let the record show an exception.

Q. (By Mr. Day) State whether or not anybody asked you to sign the application card?

A. No.

Q. State whether or not in the signing of the application card for membership in the Steel Workers Union of America, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents?

A. No, sir.

TRIAL EXAMINER LINDSAY: Now, just a minute, don't answer that.

MR. LAUTER: I object to that question and move that the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained. The answer is stricken and let the record show an exception.

MR. DAY: Exception.

Q. Did you answer certain questions today in the law office of Lynch, Day, Pontius & Lynch in Canton?

A. I did.

Q. And were they substantially the same as I am now putting to you?

A. Yes, sir.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Did you sign the card, Mr. Smith, during working hours in the plant?

A. Yes.

Q. Who handed you the card?

A. Birnbaum.

Q. What is his position in the mill?

A. 18-inch mill gauger.

Q. What is that?

A. 18-inch mill gauger.

Q. At the time you were handed cards, were any other employees handed cards?

A. Yes, I suppose so.

Q. Do you know?

A. No, because I didn't see.

Q. You had a conversation with Mr.—what is his name?

A. Birnbaum.

Q. What did he say to you?

A. He handed me a card and said: "Look it over." And said: "What do you think?"

Q. What did you say to him?
A. I said: "It was all right."
Q. Did you look it over?
A. I did.
Q. Did you sign it there?
A. No.
Q. You were alone?
A. Yes, sir.
Q. Is that the extent of the conversation you had?
A. Yes, that was all.
Q. When did you sign the card?
A. About a week later.
Q. And did you return it to some person?
A. Yes, sir.
Q. Did you have a conversation with him then?
A. Nothing than handing the card to him and saying: "Here, I signed it."
Q. What did he say?
A. He said: "All right."
Q. What else did you say, if anything?
A. Nothing. He gave me a receipt for the dues I paid him.
Q. How much were the dues?
A. One dollar.
Q. You paid your dues to date?
A. Sir?
Q. You have paid your dues since then?
A. No, sir.
Q. Attended any meetings?
A. No.
Q. Who is your foreman?
A. W. B. Perry.
Q. While you were handed this card during working hours in the plant, was your foreman around?
A. No.
Q. Were any foremen around?

A. I don't know. I didn't notice.

Q. Did any foremen make any objection to you about the fact of the card being handed to you during working hours in the plant?

A. No.

Q. Do you know whether any other employees received similar cards?

A. Yes, they received cards, but I don't know where.

Q. Did you have any conversation with them during which they told you they received cards?

A. No.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Discussion off the record.)

(Witness excused.)

MARTIN MORTENSON

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please.

A. Martin Mortenson.

Q. M-o-r-t-e-n-s-o-n?

A. Yes, sir.

Q. Where do you live?

A. 200 Park, S. W., Canton.

Q. What is your business?

A. Working in the steel mill.

Q. Republic Steel Corporation?

A. Yes, sir.

Q. In what capacity?

A. Work in the hot mill.

Q. How long have you worked for the Republic Steel Corporation?

A. Since they have had these plants I have been working out here 15 years.

Q. Have you worked for some of the Companies that afterwards became a part of the Republic Steel Corporation, is that right?

A. Yes.

Q. Do you remember when the strike was called at the Republic on May 25th last?

A. Yes.

Q. State whether or not you wished to go out on strike?

A. I didn't.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you wished to continue at work.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, immaterial and irrelevant and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. DAY: Exception.

Q. Are you a member of the Steel Workers Union of America, Republic Steel Corporation, Canton plant?

A. Yes, sir.

Q. Did you sign an application card for membership in that organization?

A. Yes, sir.

Q. Where did you sign it?

A. In the hot mill.

Q. State whether or not you signed the application for membership in that organization of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in that organization.

A. Well, they posted a notice a couple of days before they distributed cards. I read the notice and the rules and regulations and I signed—it sounded good. When they passed the card around I signed it.

Q. State whether or not anyone asked you to sign the application card.

A. No, sir.

Q. State whether or not in the signing of the application card you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. No, sir.

MR. LAUTER: I object to the question and ask the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.

MR. DAY: Exception.

Q. Today, Mr. Mortenson, were you asked substantially the questions I am now asking you in the office of Lynch, Day, Pontius & Lynch in Canton, Ohio, counsel for the Republic Steel Corporation?

A. Yes, I was.

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) In what plant do you work, Mr. Mortenson?

A. In the Stark Company.

Q. Is that in Canton or Massillon?

A. Canton.

Q. What turn do you work?

A. 3 to 11.

Q. 3 to 11, did you say?

A. Yes.

MR. DAY: Will you read that answer? I didn't hear it.

(The last answer was read.)

Q. You say a notice was posted on the bulletin board?

A. There was a little poster up there, yes.

Q. What is that?

A. There was a poster up there.

Q. Do you know who put the poster up?

A. I believe the Chairman of the organization; the temporary Chairman, Al Booth.

Q. What is that?

A. Al Booth.

Q. Al Booth?

A. Yes, sir.

Q. Did you see him put it up?

A. No, I didn't see him put it up.

Q. Do you know when it was put up?

A. A couple of days before that. I just can't say exactly. It is a month or two ago.

Q. Was Al Booth a representative under the old Employees Representative Plan?

A. No, sir, he wasn't.

Q. Was he in any way connected with that Plan?

A. No, sir.

Q. Who handed you the card to sign?

A. The roller passed them out to the crew.

Q. The roller?

A. Yes.

Q. A roller is a rather important job in the mill, isn't it?

A. Yes, sir, he is usually the boss of the crew.

Q. The boss of the crew?

A. Not exactly; he is the head of the men.

Q. A roller is the boss of the crew, isn't he?

A. In a way, yes.

Q. Well, he gives the instructions, doesn't he?

A. Well, we all have our work to do.

Q. The roller is one of the highest paid men in the mill, isn't he?

A. Yes.

Q. He is substantially the boss of the crew?

A. Yes, sir.

Q. How many men are there in that crew?

A. Eight with myself.

Q. Did he pass out cards to all the eight men?

A. He laid them on the bench that we were on. We picked them up and carried them.

Q. Did he speak to you at all about them?

A. Never said anything.

MR. DAY: Will you read that last question and answer?

(Last question and answer read.)

Q. When did that happen?

A. Oh, in the neighborhood of two months ago, I believe.

Q. When did you sign the card?

A. At the time they were passed out.

Q. The same day?

A. Yes, the same day they were passed out.

Q. Did you pay an initiation fee?

A. Yes, $1.

Q. Any dues?

A. Not yet.
Q. Have you paid any dues since then?
A. No, I haven't.
Q. To whom did you give your dollar?
A. To Al Booth.
Q. Where was Al Booth when you gave him the dollar?
A. He was right in the mill where I worked.
Q. Was that during working hours?
A. Yes.
Q. You handed him the card?
A. Yes, sir.
Q. And it was during working hours that the cards were left there so you could pick them up?
A. Yes, sir.
Q. Who is your foreman?
A. Seckerman.
Q. Was he present when the cards were left?
A. No.
Q. Was he present when the cards were signed and handed back to Al Booth?
A. No.
Q. He is just the turn foreman, is that correct?
A. Yes.
Q. He has as responsible a position as the roller?
A. He is over the roller. He tells the roller what to do.
Q. He tells the roller what to do?
A. Yes.
Q. And the roller tells the crew?
A. He looks after the crew.
Q. You work on the 3 to 11 crew?
A. Yes.
Q. You were working today?
A. No.
Q. Were you paid for today?

A. I don't know.

Q. Were you told you were going to lose any time today?

A. No, I was told to come up here.

Q. By whom?

A. Al Booth.

Q. Al Booth told you to go where?

A. To come up here.

Q. Tonight?

A. Yes.

Q. When you went to Judge Pontius' office today, did Al Booth tell you to go there?

A. That is where I was sent.

Q. By whom?

A. Al Booth.

Q. Where did Al Booth tell you that?

A. In the mill before I started to work. I was in the restaurant.

Q. Where is that?

A. I was in the restaurant in the mill before I started to work.

Q. And Al Booth told you to go to Judge Pontius' office?

A. Yes.

MR. DAY: I don't know if he told him that. Judge Pontius is sick.

TRIAL EXAMINER LINDSAY: Just a minute. Let his man testify.

MR. DAY: All right.

Q. What time did that happen?

A. About 2:30.

Q. That was before the 3 o'clock turn you were going to work on, is that correct?

A. Correct.

Q. When you left the mill?

A. Yes.

Q. When did you leave the mill?

A. 3 o'clock, I guess.

Q. What is that?

A. In the neighborhood of 3 o'clock.

Q. How long did you stay at Judge Pontius' office?

A. Oh, a couple of hours.

Q. While you were there, you were asked questions by someone in his office?

A. Just the questions I have been asked here.

Q. Substantially the same questions?

A. The same ones.

Q. Did Al Booth tell you whether or not you would lose any time or not?

A. I didn't discuss that.

Q. As far as you know, the procedure is the same today as any other day, is that correct?

A. I didn't get your understanding.

Q. Did you make any inquiry as to whether or not you would lose any time?

A. I didn't ask.

Q. Did you speak to anyone in any supervisory capacity there at the mill about coming here?

A. I spoke to the Safety Director.

Q. Who is he?

A. I don't know his name.

Q. What did you say to him?

A. I told him. He was in the office. He was the only one there I seen. I told him I was going. He said: "All right."

Q. What is that?

A. I told him I was going and he said it was all right.

Q. Now, do you generally report to the Safety Director when you leave the mill?

A. No. He was the only one in the office. The turn foreman is the man we usually see.

Q. You didn't report to the turn foreman?

A. No.

Q. You followed Al Booth's instructions and went to Judge Pontius' office?

A. Yes, sir.

Q. After you left that office, did you return to the mill?

A. No.

Q. You haven't been back to the mill?

A. No.

Q. You made no inquiries as to whether or not you would lose any time or not?

A. I did not.

MR. LAUTER: That is all.

MR. DAY: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 9:30 in the morning.

(Whereupon at 8:45 o'clock p. m. September 15th, 1937, an adjournment was taken to 9:30 o'clock a. m. September 16th, 1937.)

Council Chambers, City Hall, Canton, Ohio, Thursday, September 16, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:45 o'clock a. m.

Before

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., Arno G. Erdrich, Esq., (Union

Trust Building, Cleveland, Ohio), and J. G. Ketterer, Esq., (First National Bank Building, Canton, Ohio), appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

ROY MARKLEY

a witness called by and on behalf of the Pespondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) State your full name, please.
A. Roy Markley.
Q. Where do you live?
A. 11th Street, N. W.
Q. By whom are you employed?
A. Republic Steel Corporation.
Q. What department of the Republic Steel Corporation do you work in?
A. In the blast furnace department.
Q. In Canton?
A Yes, sir.
Q. Mr. Markley, talk a little louder, will you, please, so that we can all hear you? How long have you worked for the Republic Steel Corporation or its predecessors?
A. About eight months.
Q. Did you sign an application card for membership in the Steel Workers Union of America?
A. I did.
Q. Where did you sign it, Mr. Markley?
A. In the service house.

Q. When—do you recall about when it was?

A. It was about 20 minutes to 4.

Q. On what day?

A. Well, it was—I would say around the last four or five days of July.

Q. State whether or not you signed that application card for membership in the Steel Workers Union of America of your own free will.

A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign that application card for membership in the Steel Workers Union of America, Mr. Markley.

A. Well, we had finished up work and went to the service house to take showers and change clothes; and Mr. Glen Riggs was passing cards, and he had given them to a couple of men, and I asked for one, and I got one and signed it.

Q. State whether or not anybody asked you to sign that application card.

A. No one asked me to sign the application card.

Q. State whether or not in the signing of that application card for membership in the Steel Workers Union of America you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sus-

tained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State whether or not you wanted to go out on strike on May 25, 1937.

A. I didn't.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Well, I think it was immaterial but I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you wanted to continue working, Mr. Markley.

A. I did.

MR. LAUTER: I object to the question on the ground that it is immaterial, incompetent and irrelevant, and ask that answer be stricken.

TRIAL EXAMINER LINDSAY: Same ruling. Objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Mr. Markley, I will ask you whether or not you went to the office of Lynch, Day, Pontius & Lynch where questions similar to the ones that have been asked you here today were asked you?

A. I did.

Q. Did you fill out a sheet?

A. I did.

Q. Containing those questions?

A. I did.

MR. KETTERER: That is all.

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion off the record.)

Cross Examination

Q. (By Mr. Lauter) Did you see a notice posted in the plant with respect to Steel Workers Union of America?

A. I did not.

Q. What is the name of the man who handed you a card for the Steel Workers Union of America?

A. Glenn Riggs.

Q. What is Mr. Riggs' position in the mill?

A. He is millwright.

Q. Is that in the same department with you?

A. It is.

Q. What is your position?

A. Millwright.

Q. What plant?

A. Blast furnace, Canton.

Q. Canton plant?

A. Yes.

Q. You say you saw him hand cards to other men in the plant?

A. Not in the plant. In the service house.

Q. In the service house?

A. Yes.

Q. Where is the service house located in the plant?

A. It sits north—or east of the blast furnace.

Q. Is that during working hours?

A. It was not.

Q. During what time of the day did you see him hand—

A. Along about twenty minutes of 4:00.

Q. Is that before or after your working hours?

A. After our working hours.

Q. Have you ever seen any foreman pass out the cards?

A. I never did.

Q. How soon after you received the card did you sign it?

A. I signed it right away.

Q. Did you speak to Mr. Riggs at all?

A. Well, we talked to him about it.

Q. What did you talk to him about?

A. Well, just about the fact that it would be a good thing to belong to, due to the fact that you would have local men at the head of it, men who worked in your department, who would understand the little things that would arise.

Q. Is that what you said?

A. That is what we talked about.

Q. What did you say?

A. Well, I guess I talked—

Q. I am not interested in what you guess. Tell me what you said, if you remember?

A. Well, I told him that I—I said that—we talked about that being a good thing, to have local men,—

Q. I am not interested in what "we" talked about. Did you say anything about it?

A. Yes, I said part of it.

Q. Now, you tell him what part you said?

A. I just don't recall right now.

Q. You don't recall what you said to him?

A. No, I don't.

Q. Is that right?

A. That is right.

Q. Do you recall what he said to you?

A. Well, I recall that he said that the men who would be the head of it would be elected by the members of the union, from among the ranks, the men that we worked with.

Q. Do you know whether or not that has transpired?

A. I do not.

Q. What is that?

A. I do not.

Q. You haven't interested yourself to find out?

A. I have not.

Q. Did you pay any dues into the organization?

A. I have.

Q. Pay an initiation fee?

A. I did.

Q. And are you paid up to date?

A. Yes, sir.

Q. Now, you were asked in direct examination whether or not you went to Judge Pontius' office. Did you go there?

A. I did.

Q. When did you go there?

A. Yesterday afternoon.

Q. Who else was there when you got there?

A. Why, there was a couple of attorneys, I believe.

Q. Well, weren't there any employees there?

A. Yes, there were.

Q. Who are they?

A. I don't know them. I haven't worked out there very long.

Q. Well, did you ever see them before?

A. The only persons that I saw that I knew was Mr. Blair and Mr. Wharnby.

Q. Do they work in your department?

A. Yes, sir.

Q. Who told you to go to Judge Pontius' office? Well, you know who told you, don't you?

A. Yes, I do.

Q. Well, speak up and answer.

A. The fellow that is the private secretary or clerk in the office, said that I was wanted down at Mr. Pontius' office.

Q. When did he tell you that?

A. Yesterday afternoon about twenty minutes after 4:00.

Q. What turn were you working yesterday?

A. Day turn.

Q. What time?

A. That is from 7:00 in the morning until 3:30.

Q. You were told after working hours?

A. I was.

Q. In the mill?

A. In the service house.

Q. What is the name of the man that told you?

A. Ed. Warren.

Q. Ed. Warren?

A. Ed. Warren.

Q. Was he a representative under the old plan?

A. Not to my knowledge.

Q. Has he any connection with the Steel Workers Union of America?

A. Not to my knowledge.

Q. Did you have any conversation with the other men in Judge Pontius' office as to how they were called?

A. I did not.

MR. LAUTER: That's all.

MR. DAY: That's all.

(Witness excused.)

THEODORE A. GERKE

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Theodore A. Gerke.

Q. And where do you live, Mr. Gerke?

A. 906 25th Street, N. E., here in Canton.

Q. By whom are you employed?

A. Republic Steel.

Q. In what capacity?

A. I am a heater on the 35-inch mill.

Q. At the Canton plant?

A. Yes.

Q. How long have you been employed by the Republic Steel Corporation or its predecessors?

A. Well, it was 17 years.

Q. Did you sign an application card for membership in the Steel Workers Union of America?

A. I did.

Q. Where did you sign that application card, Mr. Gerke?

A. In the shop on a day when I was coming to work.

Q. State whether or not you signed that application for membership in the Steel Workers Union of America of your own free will.

A. I sure did.

MR. LAUTER: I object to the question and ask that the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the answer be stricken. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the application card for membership in the Steel Workers Union of America, Mr. Gerke

A. There had been some discussion in the plant among the men about forming some such organization. I heard about it; I had seen one of the cards one day on my way to work, and as I was changing clothes a man handed me that card and asked me if I would sign it and I said: "Yes."

Q. Do you know who that man is?

A. Wellin.

Q. How do you spell that?

A. I don't know how to spell it but I think his name is Wellin.

Q. State whether or not in the signing of that application card for membership in the Steel Workers Union of America you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. Absolutely no.

MR. LAUTER: At this time, if it please, Mr. Examiner, I should like to point out that the record now has five witnesses employed in the Canton plant of the Republic Steel Corporation who have testified to substantially the same facts and replied to substantially the same questions as propounded by counsel for the Respondent. I want to object to this line of inquiry on the ground that it is incompetent, irrelevant and immaterial and further on the ground that it is cumulative, and in addressing my remarks on this line of inquiry I want to renew my motion and objections that have been applied to the witnesses who have testified with respect to the Massillon plant.

(Discussion off the record.)

MR. DAY: At this time the Respondent advises the Court that there are approximately, according to our present information which may be corrected and changed later when checked, some 2500 employees of the Respondent Company at Canton whom the Respondent now seeks to call as witnesses, and to whom the Respondent desires to propound questions heretofore propounded by the Respondent to the witnesses who have already testified with relation to Canton, and such other questions as may be necessary in individual cases to elicit the facts in connection with the

conduct of these witnesses in the matters heretofore involved.

MR. LAUTER: At this time, if it please, Mr. Trial Examiner, in view of the statement made by counsel for the Respondent Company, I now renew my objection and restate the motions, and direct your attention particularly to my argument that the testimony would tend to be cumulative in view of the statement just made by counsel for the Respondent Company about calling 2500 witnesses, that their testimony would be substantially the same, and would be substantially as to the same facts.

TRIAL EXAMINER LINDSAY: I will sustain the objection made by counsel for the Board for the reasons as stated in the ruling covering the testimony pertaining to the Massillon part of the hearing, so that the ruling just now passed upon pertains to the Canton part of it and is the same as that pertaining to the Massillon part of the case.

MR. DAY: May we have an exception?

TRIAL EXAMINER LINDSAY: Let the record show an exception is granted.

MR. DAY: Exception.

(Discussion off the record.)

MR. DAY: First as to Massillon. As to the witnesses who have testified and whose evidence has been in part excluded.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses each and all signed the Back-to-Work petition and signed the application cards for membership in the Independent Association of Republic Employees of their own free will and without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents and the Respondent believes that if permitted these witnesses would so testify as to the above.

As already indicated the Respondent now seeks to call as witnesses in this hearing approximately 2000 employees of the Respondent at Massillon and to propound to said witnesses and each of them the questions heretofore propounded by the Respondent to the witnesses who have already testified and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted. The Respondent represents to the Trial Examiner and offers to prove that each and all of these witnesses did not wish to go on a strike but did wish to continue at work at the Massillon plants of the Respondent, and that they signed the Back-to-Work petition at Massillon and application cards for membership in the Independent Association of Republic Employees of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers or agents.

The Respondent believes and represents to the Court that each and all of these witnesses would so testify if permitted by the Trial Examiner.

The Respondent in connection with its offer of the evidence of these approximately 2000 witnesses states that such evidence is admissible, relevant, competent and material under the issues presented by the complaint and answer in this case and the evidence introduced by the Labor Board, and that the Respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Relations Act.

The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground.

TRIAL EXAMINER LINDSAY: Now, as to Canton.

MR. DAY: I think I had better read it right into the record.

(Discussion held off the record.)

MR. DAY: As to the witnesses who have testified, and whose evidence, has been in part excluded, the Respondent represents to the Trial Examiner an offer to prove that these witnesses each and all signed the application cards for membership in the Steel Workers of America of their own free will, without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and the Respondent believes that if permitted, these witnesses would so testify. The Respondent now seeks to call as witnesses in this hearing approximately 2500 employees of the Respondent at Canton and to propound to said witnesses and each of them the questions heretofore propounded by the Respondent to the witnesses who have already testified and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted. Respondent represents to the Trial Examiner and offers to prove that each and all of these witnesses did not wish to go on a strike but that all wished to continue at work at the Canton plant of Respondent and they signed the application cards for membership in the Steel Workers Union of America of their own free will without being influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers or agents.

The Respondent believes and represents to the court that each and all of these witnesses would so testify if permitted by the Trial Examiner.

The Respondent in connection with its offer of the evidence of these approximately 2500 witnesses states that such evidence is admissible, relevant, competent

and material under the issues presented by the complaint and answer in this case and the evidence introduced by the Labor Board, and that the Respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Relations Act.

I want to say at this time that the figures of 2000 at Massillon and 2500 at Canton are in accord with our present information; that a check is being made on it and we would like to have the right to amend it if, when the check is concluded, we find the facts to be different.

I want to also add as to Canton that Respondent also believes that the evidence of these witnesses is not cumulative in character and subject to objection upon that ground.

MR. LAUTER: I want the record to be clear, that in making its offer of proof, there is a statement to the effect that counsel for Respondent company proposes to ask such other questions as may be necessary in individual cases to elicit the facts. My inquiry is directed as to whether or not that is not intended to be limited to such matters as affect the Back-to-Work Petition and the application cards and not to go beyond the type of questions that have already been asked of witnesses who have already testified in connection with this hearing both with respect to Canton and Massillon.

MR. DAY: It does relate and is intended to relate only to Back-to-Work petitions and membership applications in the Union, and on the question, Mr. Lauter, as to whether or not these men wanted to go out on the strike.

TRIAL EXAMINER LINDSAY: Now, off the record.

(Discussion held off the record.)

MR. LAUTER: I should like to point out for th record at this time that this case does not involve vi lation of subdivision 5 of Section 8 of the Act, an that sub-section 9-C of the Act is also not involved i this case.

TRIAL EXAMINER LINDSAY: Is there an further testimony?

MR. DAY: If the Court please, this concludes th evidence and testimony which the Respondent desire to offer at this Canton and Massillon hearing. We d wish to say, however, that we are investigating certai matters in connection with Canton and Massillon, an it may be in the presentation of the case at Clevelan or Youngstown something may develop reflecting o Canton and Massillon that we might wish to put i evidence at either Youngstown or Cleveland.

TRIAL EXAMINER LINDSAY: Under thos circumstances, if the attorneys representing the Re spondent give me some idea of what that testimony i and if I feel it is material, that right shall be granted.

MR. DAY: And I want to also say that I haven had a chance to check up this matter with either Judg Pontius or Mr. Veach for reasons which your Hono knows. That is an additional reason why I migh want to offer something at Canton and Massillon— mean concerning Canton or Massillon, at Youngstow or Cleveland.

TRIAL EXAMINER LINDSAY: Well, let th record show that I will give you every courtesy in tha regard that is possible.

MR. DAY: Thank you.

TRIAL EXAMINER LINDSAY: Now, the hear ing is adjourned, and we will reconvene the hearing a Youngstown in the County Courthouse at 10 o'clock i the forenoon of September 17, 1937.

(Thereupon at 10:30 a. m., September 16, 1937, a

adjournment was taken until 10 o'clock a. m. September 17, 1937.)

Court of Appeals Room, Mahoning County Court House, Youngstown, Ohio, Friday, September 17, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and A. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio; .

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing will come to order.

(Discussion off the record.)

CAPTAIN CHARLES RICHMOND

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Your name, Captain?

A. Charles Richmond.

Q. How are you employed?

A. Employed with the City of Youngstown in the Police Department.

Q. In what capacity are you employed there in the City of Youngstown?

A. Acting Captain; Acting Captain.

Q. When did you first become a member of the Youngstown police?

A. April 1st, 1913.

Q. Has your service with the Police Department been continuous over the period of that to the present time?

A. No, sir.

Q. For how long were you on before there was an interruption?

A. About five years and six months.

Q. Then what happened?

A. I resigned in September, 1918, and came back August 1st, 1919.

Q. Has the service been continuous since then?

A. Yes, sir.

Q. What different positions in the Police Department have you held?

A. I have been in all the services as a patrolman, detective, sergeant, and acting captain.

Q. How long have you been acting as captain in this particular period?

A. About a year and six months.

Q. What was your vocation during the time, and prior to the time you were not with the Police Department?

A. Railroader.

Q. What is that; with what company?

A. Erie Railroad.

Q. How many years were you engaged in that occupation?

A. About seven years.

Q. Well, in what capacity were you working?

A. First as a brakeman in train service and as a detective in the Police Department.

Q. While you were working on the railroad, were you a member of any Union?

A. Yes, sir.

Q. You are not a member now, there being no Union for your particular vocation, is that correct?

A. That is it.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and move that the answer be stricken as to whether or not this witness is a member of any Union or not. I am not going—

MR. SMITH: I will not insist upon it if you want it out.

Q. Was there any prejudice that you have against the Union?

A. No, sir.

MR. LAUTER: I object to it on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken. "Prejudice that you have against the Union."

TRIAL EXAMINER LINDSAY: Yes. That is a complete conclusion.

MR. SMITH: I will not press that.

TRIAL EXAMINER LINDSAY: The answer is stricken.

Q. Captain, when did you first have anything to do in connection with the recent strike here in this valley; the steel strike?

A. May 26, 1937.

Q. What was that occasion?

A. I was driving a City car in company with a sergeant over Division Street in the Brier Hill Section when I was stopped by pickets who informed me they were closing the road, and had closed the road; and after some persuasion I went through and came out through Federal and Division Streets, when I was stopped again and they told me that they had closed the road and I could not come through; I would have to come back the way I went.

MR. LAUTER: I am sorry I will have to interrupt. I am not able to wait until the end of this witness' answer. I want to object to the statement of the witness where he makes the reference to persuasion. I move that that be stricken from the record and move that the witness be instructed not to state any conclusions but the conversations themselves.

TRIAL EXAMINER LINDSAY: Yes; that is sustained. The word persuasion is stricken from the record. (To the witness) You must understand, Mr. Witness, that you can only tell what actually transpired. What they said and what you said. You can't draw your conclusions and then give your conclusions.

THE WITNESS: (Continuing) They told me I could not get through; that the road was closed. When I asked them why I could not get through they told me there was a strike on, and I told them that was a public highway and a strike should not close that road. I got through and came out through Division and West Federal and they stopped me and told me I could not go through there; I could not go out through Division and Federal Streets. I got through and called the police box for men to be detailed at that point to keep the road open, and started back through Division Street, and at the first point where I was stopped I was stopped again and told I could not get through. I got through there and went back over to the first point

where I had been stopped and the pickets left the Division and Federal Street intersection and went to the mill gate where they attempted to stop traffic there.

MR. LAUTER: I move that it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, it may be stricken.

A. (Continuing) They did stop traffic until the Sergeant and I came there; until by getting the automobiles in motion opened up the streets up again.

MR. LAUTER: At this time I want to object to this line of inquiry; to this particular question; and ask that it be stricken on the ground that it is incompetent, irrelevant and immaterial as to what the pickets did at that particular time as being out of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: You say you reserve the ruling?

TRIAL EXAMINER LINDSAY: Yes.

Q. In what way was the traffic stopped?

A. It was—

Q. (Continuing) That you spoke of at this point, Captain?

A. The pickets would blockade the road by standing in groups and tell the automobile drivers to turn around and go back the other way.

MR. LAUTER: I object to that question and ask that the answer be stricken unless the witness has personal knowledge of that incident.

MR. SMITH: Do you have personal knowledge of this situation as to what they were doing?

THE WITNESS: Yes, sir.

Q. Did you hear the pickets—

A. Yes, sir.

Q. —talking to the drivers of the automobiles?

A. Yes, sir.

Q. Just state what they said?

A. They said, "This road is closed, you can't get through."

Q. Was there any blockade of any kind in connection with any of the streets there that night?

A. No, sir.

MR. LAUTER: May I have the question reread?

MR. SMITH: Any blockade?

MR. LAUTER: I object to that.

Q. (By Mr. Smith) Other than the pickets standing in the street?

A. No, sir.

MR. LAUTER: Just one second, I will object to that question and move that the answer be stricken on the ground—

MR. SMITH: He says, "No."

MR. LAUTER: Well, I say, I move that the answer be stricken on the ground that the use of the word "blockade" calls for a conclusion.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. So is the answer.

MR. SMITH: All right. He says, "No."

TRIAL EXAMINER LINDSAY: Let's have this understood, we will get along much faster and much better if, in your questions you will leave out conclusions. Now, you know that to establish what a blockade is you must show facts.

MR. SMITH: I will endeavor not to include anything of that kind. I will endeavor to avoid it.

TRIAL EXAMINER LINDSAY: Because what you think a blockade is may not be a blockade according to the idea of someone else.

MR. SMITH: That is right. I will endeavor to avoid that.

Q. (By Mr. Smith) Do the statements or testimony that you have given, cover about what you observed on that night? The night of the strike?

A. Yes, sir.

Q. May 26th?

A. I believe they do.

Q. Well, now, when did you next make any observations in connection with this strike after the night of the 26th of May?

A. Well, I don't recall the exact date.

Q. Can you give us an idea of how long it was after May 26th?

A. It was in the first part of June.

Q. The first part of June?

A. Yes, sir.

Q. And where were these observations made?

A. On the Cente Street Bridge.

Q. Well, now, just tell us what you observed there?

A. I was driving west on Poland Avenue, turned north over Center Street Bridge where I heard a whistle and I paid no attention to it, and was glancing right and left over the bridge, and suddenly I saw a man at my left side with a ball bat in his hands raised in a manner like that (indicating).

Q. Now, by "in a manner like that" you mean with his hands up over his shoulders?

A. Yes, sir. The ball bat raised in the air.

Q. Yes.

A. I stopped and asked him what the trouble was. He says, "Oh, I didn't see who you were." I asked him what the occasion was for raising the ball bat. He said he was there to stop cars that were going too fast. He was standing on the east side of the bridge, not on the sidewalk, but in the roadway.

Q. And how fast were you going, Captain?

A. I would judge about 30 miles an hour.

Q. You were permitted to proceed, then, were you?

A. Yes, sir.

Q. Now, when was the next incident that you recall, or observations in connection with this strike?

A. Well, frequently at night, I can't recall the dates, I was on the night turn from 11 p. m. to 7 a. m. about sometimes—oh, the middle of June, when we were on twelve hours.

Q. That is, you were working on eight hour tricks before?

A. Yes, sir.

Q. Now, directing your attention up until when you went on the twelve hour trick, work per day, just state what you observed in connection with it, up until that time?

A. At the mill entrances pickets were armed with clubs, gas pipes, and weapons of different types, in the shape of clubs.

Q. About how large would you say those clubs were that you observed?

A. Oh, they varied from six-inch piece of steel to base ball bats, common baseball bats.

Q. Now, in going at those times, did you make any survey around the picket line?

A. Yes, sir.

Q. And at what places did you observe these pickets that were armed, as you have suggested, or have stated?

A. Well, at the entrances to the Sheet & Tube main plant in Briar Hill and at the office entrance on West Federal Street, under Market Street Bridge at Republic; Front street at the side of the Bessemer plant of the Republic; Tube Street, off Poland Avenue; stop 5; stop 7, Center Street Bridge; Edgewood Street and stop 14 at the Sheet and Tube Campbell Street.

MR. LAUTER: I think counsel for respondent will consent to withdrawing the testimony of observa-

tions of this witness with respect to the Youngstown Sheet & Tube.

MR. DAY: Yes, we will.

TRIAL EXAMINER LINDSAY: All right, that may be stricken.

Q. (By Mr. Smith) In the questions that I ask you now, confine yourself to what you observed in connection with the Republic Steel Corporation plants?

A. The reason I mentioned these other plants is because—

MR. LAUTER: I object.

A. —I was in charge of the entire strike zone.

MR. SMITH: Just a minute now.

TRIAL EXAMINER LINDSAY: Understand that when a counsel gets up and starts to make an objection, that you are supposed to stop immediately.

THE WITNESS: All right, sir.

MR. LAUTER: I move that the remarks of the witness be stricken.

TRIAL EXAMINER LINDSAY: For the time being now, all of the remarks are stricken from the record. Restate that question.

(Question read by the Reporter.)

Q. (By Mr. Smith) Will you just state what you observed in connection with Republic Steel Corporation plants?

A. The pickets were armed with baseball bats, pieces of pipe and other weapons of that nature, and the main office entrance, Republic Iron & Steel, under Market Street Bridge, alongside of the Bessemer plant, and Front Street at Tube Street entrance to the Republic, stop 5 entrance to the Republic, stop 7 entrance to the Republic, Center Street Bridge and along Edgewood Street beside the Republic.

Q. Now, what part did you take in the strike, as to this area, after the time that you went on twelve hour a day turn?

A. I was detailed to the strike zone only.

Q. What did the strike zone that you were detailed to cover, or consent [consist] of?

A. All the gates and entrances to the plants on strike. Streets in those areas.

Q. Well, now, that covered any other plant than the Republic, also?

A. Yes, sir.

Q. Now, do you remember on or about the 9th of June a disturbance at the Market Street Bridge?

A. Yes, sir.

Q. Were you there?

A. I was.

MR. LAUTER: What was the date of that, please?

MR. SMITH: June 9th.

Q. (By Mr. Smith) Just state in your own way what occurred as near as you can, and when you went down there and what you observed and saw?

A. I went down there—

MR. LAUTER: Just one second. I want to object to this question, object to this line of inquiry. There is no testimony in the Board's case with respect to June 9th. Outside of the scope of the issues in this case; incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: May I see the complaint and the answer?

(The following question and answer were again read:

"Q. Just tell in your own way what occurred as near as you can when you went down there; what you observed and saw.

A. I went down there.")

(Discussion off the record.)

A. I went down there under the Market Street Bridge as I was ordered about 5 minutes to 11; a food truck was sent into the Republic mill. Pickets on duty there and

others who came later were around the mill entrance; that is the driveway to the mill; and also the main office. There was some confusion there and presently Bobby Burke—

MR. LAUTER: I move that the answer be stricken with regard to confusion.

TRIAL EXAMINER LINDSAY: Yes. That is stricken.

Q. Were there a number of pickets around there?

A. At the beginning about 25.

Q. How many pickets were there later in the evening?

A. I would say 200 or 250.

Q. Now, do you know who was in charge of the gatherings there in behalf of the C. I. O. or anyone on behalf of them?

A. Bobby Burke—

MR. LAUTER: I object to that question and ask that the answer be stricken unless the witness has testified as to his own personal knowledge as to who was in charge that night.

Q. Do you know Bobby Burke—

MR. LAUTER: Let us get a ruling on the objection first.

TRIAL EXAMINER LINDSAY: The objection is sustained.

MR. LAUTER: The answer is stricken?

TRIAL EXAMINER LINDSAY: The answer is stricken.

Q. Do you know Robert Burke?

A. Yes, sir.

Q. Do you know whether or not he was an C. I. O. organizer and leader?

A. From his own statements, yes, sir.

Q. Did you see him there that night?

A. Yes, sir.

Q. Just tell what you heard and saw there.

A. I don't recall all his speech. I heard him addressing the crowd from the steps leading from Market Street Bridge level to the street level under the bridge.

Q. Yes.

A. I heard him say to one of the men coming down the steps down there—he turned and glanced at him and said: "Get out of here, you son-of-a-bitch" and he turned around to the crowd and said: "Go get that son-of-a-bitch." Four or five men pushed by me up the steps and started. I started to call the office for men to be sent to the bridge level at the top of the bridge, and I heard, when I came back from the office where I had sent the men to call on the telephone, I heard this man calling for help—I heard a call for help, rather, from the top of the bridge. I sent men around in a car from underneath to the top, and they came back and said a man had been shot and sent to the City Hospital.

Q. Now, what else did you observe there? As to the pickets that were there; as to what occurred.

A. They were very angry.

TRIAL EXAMINER LINDSAY: That is stricken.

Q. Now, state what it was that they did; what they said; what you observed.

A. I heard Burke says: "These cops have machine guns in their car and gas in their pockets". And I invited him to inspect our car. There was no machine gun in it and he knew it when he looked at it.

Q. Did he inspect it?

A. He did.

Q. Did he find anything of the character which he suggested?

A. He didn't.

MR. LAUTER: Mr. Reporter, will you read back four or five questions and answers?

(The last five questions and answers were read.)

MR. LAUTER: Is that the same day.

MR. SMITH: Oh, yes, the same day; the same day at night.

Q. Now, did you observe any identification marks of any kind in connection with the crowd that was there?

A. They had C. I. O. buttons on; some of them.

Q. What did you observe as to anything they carried in their hands?

A. Only one man that I saw had a club.

Q. How many policemen were down there?

A. I saw, I would say, about 15 or 18.

Q. You may state what, if anything, occurred as to any injury to any policeman.

A. Later two of the men were injured when they came down the steps.

Q. Now, to get this picture a little bit clearer as to the picture, just tell us—

MR. LAUTER: Excuse me, Judge Smith. I want to object to this question and ask that the answer be stricken as to the injury of the two policemen on the ground that it is incompetent, irrelevant and immaterial and outside of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Yes, it is stricken, unless you can establish those facts; and the answer is stricken.

MR. SMITH: We expect to have both of these men on the witness stand that will tell it themselves.

TRIAL EXAMINER LINDSAY: Then the whole answer is stricken.

Q. Did you observe these men that you spoke of—the policemen when you said they were injured or not? Were you present?

A. No, sir, I wasn't.

Q. You didn't see it?

A. No, sir, I talked to them later.

Q. Now, let us get a little better description of this situation. I believe that Market Street Bridge is the level of the bridge, that it is considerably above the ground level at that point of the Republic plant?

A. Yes, sir.

Q. About how high is it?

A. The best estimate I can give is 50 or 60 feet.

Q. Now, this occurrence that you spoke of occurred down on the ground level under the bridge; the Market Street Bridge?

A. Yes, sir.

Q. How do you at that point reach the ground level from the top of the bridge; otherwise to go up to the bridge?

A. By a series of steps which run kind of zigzag; steps lead to it.

Q. Was there a platform?

A. Yes, sir, there are steps; then a platform; then steps kind of turned around and you reach the top that way.

Q. Now, you spoke of Mr. Burke standing on the steps. Was it on these steps that you spoke of?

A. Yes, sir.

Q. Was it the same steps that this man came down when he called this man the names and told the men to go get him?

A. Yes, sir.

Q. You say there were about 15 policemen there?

A. I would say 15 or 18.

Q. They came as a result of your call to the office for help?

A. Yes, sir.

Q. Were there any other officers there aside from the City police?

A. Not at that time.

Q. Did any come later?

A. Yes, sir.

Q. What officers were there?

A. Deputy sheriffs and the sheriff from the County Jail.

Q. How many of these came, do you know?

A. No, sir, I didn't see how many there were.

Q. Did you hear any shots fired other than the one you mentioned?

A. Yes, sir.

Q. About how many?

A. I would say two.

Q. Were there any shots fired by the police?

A. No, sir.

Q. Were there any shots fired?

A. No, sir.

Q. Was there any gas used in connection with this?

A. Later, yes, sir.

Q. Who used that gas?

A. The sheriff's men used gas and we used some gas.

Q. At that time were there any of the strikers there from the crowd that was arrested?

A. Yes, sir.

Q. Do you know about how many?

A. No, sir, not personally.

Q. Were they arrested by the City police or the sheriff?

TRIAL EXAMINER LINDSAY: Just a minute.

(Discussion off the record.)

(Record read by Reporter.)

Q. What did you observe in connection with this situation down there as to anything done by the pickets in connection with your police department? Were there any missiles of any kind that were used in connection with this?

MR. LAUTER: Well, I want to object to that question as leading the witness so clearly that—

TRIAL EXAMINER LINDSAY: Yes, let's try not to lead the witnesses who are—

MR. SMITH: Just—Well, may I proceed?

TRIAL EXAMINER LINDSAY. Yes. Just withdraw that question, Mr. Smith.

MR. SMITH: Yes, I will withdraw that question.

Q. (By Mr. Smith) What did you observe as to any weapons or anything else in connection with the pickets there, other than this one club you spoke of?

A. There were stones piled up in different positions around the fire that the pickets had in an oil drum.

Q. Did you observe anything that was done with those?

A. No, sir, I didn't. I was too far back.

TRIAL EXAMINER LINDSAY: Just a minute. Entirely off the record.

(Discussion held off the record.)

MR. SMITH: May I proceed?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Smith) Do you know of your own knowledge who placed these stones there?

A. No, sir.

Q. Did you have occasion—

MR. LAUTER: Now, does the record show the witness' answer?

MR. SMITH: He said, "No."

A. No, sir.

MR. LAUTER: I didn't hear the answer. I just saw him shake his head.

Q. (By Mr. Smith) Did you have occasion at different times other than this night of June 9th, to be under the Market Street Bridge?

A. Yes, sir.

Q. What did you observe in there in connection with any stones or any other missiles of any kind, when you were there at other times?

A. This space under Market Street Bridge is under the control of the County, and the space—the space rather under the bridge is kept clear for the parking of cars and trucks owned by the County, machines of different types—

MR. LAUTER: I move this answer be stricken.

MR. DAY: We are entitled to that.

MR. LAUTER: He is not entitled to state that this property is owned by the County.

MR. DAY: What he had seen it used for, we are entitled to.

MR. LAUTER: Well, I move the statement as to who owns that property be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken. Tell what you saw. Go on.

A. This space was kept clear, up to the time the pickets came.

Q. And what did you observe afterwards?

A. They had a coal pile there. They had an oil drum for a fire, and they had piles of small stones back away from the fire about 10 feet.

Q. Did you observe anything else done, there?

A. Well, they had a water bottle and cooler and things of that type, that is about all.

Q. Did you observe those before or after the night of June 9th?

A. They were there a few nights before June 9th. I don't recall the exact date.

Q. Did you observe them at any time afterward?

A. Some of it. Yes, sir, the coal was taken away, the pile was reduced and the oil drum was taken out of there.

Q. Now, does that cover about what happened on June 9th that you observed and heard?

A. That is all I can think of, yes, sir.

Q. I wish to direct your attention to the night of June 19th and to Stop 5 entrance of the Republic mill and ask you if you were there on that night at that point?

A. Yes, sir.

Q. Now, just state what occurred at that time, what you saw?

A. About 7 o'clock in the evening I passed through there in an automobile and saw large groups of men and women on both sides of the street. The women were seated in chairs in the driveway of the Republic, and on the sidewalk of the city on the north side of Poland Avenue.

Q. Was the point where they were sitting on Republic property?

A. Yes, sir.

Q. What did you observe as to any identification marks on the people who were there?

A. Some of the men had buttons on, C. I. O. buttons, and I didn't notice anything on the women. They were dressed in various colored dresses.

Q. What did you observe as to anything they had in their hands? Not the women, the men.

A. I didn't—I don't recall seeing anything at that time in their hands.

Q. That was at what time in the evening?

A. About 7 o'clock.

Q. Now, just proceed as to what you did?

A. I stopped at C. I. O. headquarters and inquired for Mr. Fagin who was, I believe, the manager or leader here in that group.

Q. Where is C. I. O. headquarters there?

MR. LAUTER: Object. At this time in order to save the record, if you recall, I want to move that all of the evidence with respect to the June 9th incident, which has been testified to by this witness be stricken from the record, on the ground incompetent, irrelevant, and immaterial, outside the scope of the issues in this

case. On the grounds, if it please the Trial Examiner, there is no identification of any of the persons there. He has testified as to a small pile of stones. He is unable to state as to who gathered those stones. He states positively in the record that he saw no stones thrown. Now, that testimony can't possibly mean anything in this case. It is unrelated to the issues. I understand that you reserved ruling on my objection at the time that I made it. I respectfully request that you at least reserve ruling on my motion, that is ruling on the motion to strike, as I made before, to that line of inquiry.

MR. SMITH: That applies to June 9th.

MR. LAUTER: That is correct. And in order not to interrupt again, may I at this time make my objection to this line of inquiry with respect to June 19th, if substantially the same type of evidence is going to be adduced with respect to that date.

MR. SMITH: Well, the evidence that will be adduced there will be very much greater and covering a longer period of time.

MR. LAUTER: Well, when I say "substantially the same" I mean acts of violence of individual pickets or members of the C. I. O., as being unrelated to the issues in this case, in no way connected with it.

TRIAL EXAMINER LINDSAY: Well, I will also reserve my ruling on that. It is 12 o'clock, so we will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 p. m.)

After Recess

(Whereupon, at 1:30 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing will come to order.

CAPTAIN CHARLES RICHMOND

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

MR. SMITH: Will you read back the last two questions and answers, please?

(The last two questions and answers were read.)

Q. Where is C. I. O. headquarters located there on Poland Avenue?

A. At that time it was 1656 Poland Avenue.

Q. Where is that with reference to Stop 5?

A. Oh, about two blocks east on Poland Avenue.

Q. East on Poland Avenue?

A. Yes, sir.

Q. That is farther out?

A. Yes, sir.

Q. Did you see Mr. Fagin around?

A. No, sir.

Q. Did you talk with anyone else there?

A. Yes, sir.

Q. Who?

A. I talked to John Debozzy. He was a picket captain on days.

Q. Where was Debozzy stationed as a picket captain?

A. At Stop 5.

Q. Now, just tell us what your conversation was with Mr. Debozzy.

A. I told Mr. Debozzy I noticed women were seated in the driveway and on the sidewalks of the street, and that the pickets were massed in groups on the north side of the street and also on the south side of the street.

Q. At what location?

A. At Stop 5. I asked him to instruct those pickets to resume their walking as they had been doing up to that day; and I asked him to instruct the women to take their chairs and leave the sidewalk and the driveway, and if

they wanted to join the pickets in the line—if they wanted to do that, that was O. K.

Q. You had that conversation?

A. Yes, sir.

MR. LAUTER: I think, Judge Smith, if you will point out to the Trial Examiner, who may not be familiar and may not know this area that Stop 5 is the fifth stop as I understand it on the bus that goes out in that direction. You might ask the witness to explain that location in order to make that clearer.

MR. SMITH: I will do that.

Q. For the purpose of getting the location, can you designate what Stop 5 means?

A. Stop 5 is an old streetcar stop that has been in effect there for years before they started to stop at the different streets; that was the fifth stop after leaving the Square.

Q. On account of usage this Stop 5 has become the name of a location?

A. Yes, sir.

Q. That Stop 5 is located out east near the entrance to the mill at that point?

A. Streetcars and busses stop directly opposite the entrance to the mill.

Q. There is a railroad located immediately south of the—east a short distance and south of Poland Avenue, isn't it?

A. The Youngstown and Suburban Railroad is a switch connected with the Pennsylvania Railroad; that is south of Poland Avenue.

Q. Now, I mean the same railroad that runs across on the north side of the Republic plant.

A. That would be north of Poland Avenue.

Q. Yes.

A. Yes, sir.

Q. About how high is that embankment, if you know?

A. I would judge about 15 or 16 feet.

Q. Above the level of the ground on each side of it?

A. Yes, sir.

Q. The land on the outside, on the south side of this embankment and in between that Poland Avenue was connected with a parking space there, is that right?

A. Yes, sir.

Q. About how far to the east of the entrance of the plant does that parking space extend?

A. I would say between six and seven hundred feet.

Q. Now, there will be probably reference made to the Security Lumber Company. Where is that located?

A. That is at the east end of that parking lot.

Q. There will be probably reference to Bolevich's Cafe. Where is that located with reference to that?

A. Almost opposite the driveway of the entrance to the Republic land.

Q. Where is that with reference to Stop 5?

A. About two blocks east on Poland Avenue.

Q. That is further out?

A. Yes, sir.

Q. Did you see Mr. Fagin?

A. No, sir.

Q. Did you talk with anyone else there?

A. Yes, sir.

Q. Whom?

A. I talked to John DeBozzy, who was picket captain on days.

Q. Where was DeBozzy stationed as picket captain?

A. At Stop 5.

Q. Now, just tell what your conversation was with Mr. DeBozzy?

A. I told Mr. DeBozzy I had noticed women were sitting in the driveway and on the sidewalks of the street after the pickets were massed in groups on the north side of the street and also on the south side of the street.

Q. At what location?

A. At Stop 5, and I asked him to instruct those pickets to resume their walking, as they had been doing up to that day, and to ask the women to leave the chairs—to take their chairs and leave the sidewalk and the driveway, if they wanted to join the pickets in the line that was o. k.

MR. LAUTER: I think Judge Smith will have no objection if we point out to the Trial Examiner, who may not know, because he is not familiar with this area that Stop 5 is the fifth stop, as I understand it, on the bus that goes out in that direction? You might ask the witness to explain the location of this so it can be made clear to the Examiner.

MR. SMITH: All right, I will do that.

Q. (By Mr. Smith) For the purposes of getting the locations, can you designate what Stop 5 means?

A. Stop 5 is an old street car stop that has been in effect there for years, before they started to stop at the different streets. That was the fifth stop after leaving the Square.

Q. I see; and on account of the usage of that kind, this Stop 5 has become the name of the location?

A. Yes sir.

Q. And that Stop 5 is located at or near the entrance to the mill at that point, is it not?

A. Street cars and busses stop directly opposite the entrance to the mill.

Q. I see. Now, there is a railroad located immediately south—a short distance out of Poland Avenue, isn't there?

A. The Youngstown and Suburban Railway has a switch connected with the Pennsylvania Railroad that is south of Poland Avenue.

Q. Well, now, I mean the steam railroad that runs across on the north side of the Republic plant?

A. That would be north of Poland Avenue.

Q. Yes.

A. Yes, sir.

Q. About how high is that embankment, if you know?

A. I would judge about 15 or 16 feet.

Q. And above the level of the ground on each side of it?

A. Yes, sir.

Q. And the land on the outside, on the south side of this embankment and between that and Poland Avenue I believe was used as a parking place there, was it not?

A. Yes, sir.

Q. And about how far to the east of the entrance to the plant does this parking space extend?

A. I would say between six and seven hundred feet.

Q. Now, there will probably be reference made to the Security Lumber Company, where is that located?

A. That is at the east end of this parking lot.

Q. Yes; and there will probably be references made to Bolevich's Cafe, where is that located with reference to that?

A. Almost opposite the driveway of the entrance to the Republic mill.

Q. Now, probably reference will be made to some garage; where is that located with reference to Bolevich's Restaurant?

A. The Motor Express has a loading station in the rear, a building extending, I would say, 200 feet parallel with Poland Avenue, in the rear of the Bolevich Cafe, and between Bolevich's Cafe and the Motor Express was a series of garages connected on Bolevich's property.

Q. And going back to this garage, how do you approach it?

A. Through a driveway between Bolevich's Cafe and a boarding house operated by Bolevich just east of the cafe.

Q. About what is the distance or the width of this driveway?

A. I imagine about 14 to 16 feet.

Q. And that extends back between these buildings and ne garage?

A. Yes, sir.

Q. And that is south of Poland Avenue and about at ght angles to Poland Avenue, isn't it?

A. Yes, sir.

Q. And Poland Avenue runs east and west at that oint, doesn't it?

A. Almost east and west.

Q. Now, reference will probably be made to the Stand-rd Oil Filling Station. Will you describe where that is ocated, in that vicinity?

A. That is at the corner of Powersdale and Poland venue, about 300 feet east of the entrance to the mill at top 5.

Q. And on the south side of Poland Avenue?

A. Yes, sir.

Q. And Powersdale is a street that runs north and outh and runs off at right angles from Poland Avenue, is hat correct?

A. Yes, sir.

Q. Now, there is Powersway, where is that located?

A. That runs from Center Street, the end of the Center treet bridge in a southeasterly direction.

Q. Off from Poland Avenue?

A. From Poland Avenue, yes, sir.

Q. About what distance is Center Street Bridge or owersway from Stop 5?

A. I would judge pretty close to half a mile.

Q. What did Mr. DeBozzy say to you as to your re-uest, in answer to your request?

A. I got no answer from him at all.

Q. Now, just state what you did following that?

A. I left there in the car and went over Center Street ridge, over Edgewood and Jackson, and turned there, ame back over Center Street Bridge, east on Poland Av-

enue to Stop 14. Turned there, came back up Poland Avenue. I crossed Center Street Bridge again to Edgewood Street, and stopped there for several minutes. When I started again I came over Center Street Bridge and turned west on Poland Avenue towards Stop 5.

MR. LAUTER: If you please, Mr. Trial Examiner, we have had a rather lengthy description of this area; have had a lengthy description by this witness of his peregrinations around that area. I would like at this time to inquire from counsel for respondent what the purpose of all this description is? It may not delay the proceeding in this case unduly.

MR. SMITH: I assure you, I thought that by following it in chronological order that I probably was hastening or getting through with it, and I thought that by giving a description of the locations there that it would give you a better opportunity to understand the testimony that will be later introduced. Now, he is coming back directly to Stop 5 at this point.

MR. LAUTER: I have no objection to this being the explanation of the area; I would like some statement of the reason for it, because if they are going to have any more testimony concerning violence by unidentified persons similar to the testimony that has already been given with respect to June 9th, I would like to make my objection at this time to this line of inquiry, instead of pursuing it for several hours without any explanation of what is going to happen.

MR. SMITH: I sincerely hope that the passage of time of several hours—it seems to me to have been probably a couple of minutes in getting the witness to state what he was doing. If it is not desired that I do that in detail, I will bring him right back to Stop 5 and ask him directly as to that.

MR. LAUTER: Perhaps counsel misunderstood me. It was not my intentions to state for the record

that it had taken several hours, but that several hours might be consumed from now on going into a phase of the case to which I think I may have a perfect right to object.

TRIAL EXAMINER LINDSAY: Yes, you have a right to object. There is no doubt about it.

MR. LAUTER: We have heard, now, testimony from this witness—he has been the only witness on the stand—I have heard testimony from this witness about incidents on June 9th, and on my objection to that testimony and my motion to strike, the ruling has been reserved. I would like at this time, if similar testimony is going to be offered with respect to incidents on June 19th, concerning which I have offered absolutely no evidence at all in the Board's case in chief—as I say, I don't want to interrupt Judge Smith in the presentation of his case, but if he is going to relate similar incidents, I want the record to preserve my right, not spend the time.

MR. SMITH: It will be, instead of similar instances, as to acts of violence that occurred at that point at that night, in which there was a riot there and several people killed and injured.

(Discussion held off the record.)

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: We will adjourn to tomorrow at 9 o'clock.

(Whereupon, at 3:05 p. m. September 17, 1937, an adjournment was taken to 9:00 o'clock a. m. September 18, 1937.)

Court of Appeals Room,
Mahoning County Court House, Youngstown, Ohio,
Saturday, September 18, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9 o'clock, a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley and Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

CAPTAIN CHARLES RICHMOND

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

(Discussion off the record.)

(The last three pages of the hearing of September 17th was read.)

MR. LAUTER: If it please, Mr. Trial Examiner, to preserve my record at this time I should like to make certain objections and motions. Evidence has been introduced in this hearing with respect to certain acts of violence on June 9th, 1937; and counsel for the Respondent Company has indicated he intends to intro-

duce evidence of certain other alleged acts of violence on June 19th, 1937.

I wish to object to the further introduction of any evidence of alleged acts of violence on June 9th, 1937, and June 19th, 1937, and specifically to this general line of inquiry.

I object to it on the ground that it is incompetent, irrelevant and immaterial. I wish to state for the record that no evidence was presented with respect to any occurrences on June 9th, 1937, and June 19th, 1937, and specifically state that no evidence respecting any violence was presented by counsel for the Board in the Board's case in chief during the presentation of the testimony regarding Youngstown. Now, counsel for the Board has alleged in the complaint and shown during this hearing specific instances of interference by the Respondent Company in violation of the National Labor Relations Act. For example: The trailing of S.W.O.C. organizers by identified Republic policemen. No defense testimony has been offered with respect to these specific instances of interference. Now counsel for the Board has alleged and shown specific instances of interference with peaceful picketing.

It is no defense to the proof of specific instances of interference with peaceful picketing for Respondent to attempt to show that on other occasions picketing was not peaceful. Further it is no defense to the proof by counsel for the Board of specific instances of peaceful picketing for Respondent or counsel for the Respondent to attempt to show what the police have alleged to have done when the picketing was not allegedly peaceful. Counsel for the Respondent Company was permitted a complete opportunity to present unlimited testimony in connection with the incidents which occurred at Massillon on July 11th, 1937; con-

cerning which counsel for the Board presented evidence during the Board's case in chief. Counsel for the Respondent Company was permitted at Canton the greatest latitude in the introduction of testimony of alleged violence, not only in connection with certain acts and certain instances of July 11, 1937, with respect to which the Board's counsel has presented in chief but counsel for the Respondent Company was permitted the greatest latitude in presenting testimony concerning acts of violence in no way connected with the incidents of July 11, 1937, not occurring on that day or in the same vicinity.

Now, on this hearing the Respondent Company is charged in this case with the violation of Section 8, Subdivision 1, 2, and 3, of the National Labor Relations Act. I do not wish in any way to limit the right which counsel for the Company has to introduce any testimony concerning the violations of the National Labor Relations Act which have been alleged and which have been shown during this hearing.

No objection has been made to any showing of particular acts of alleged violence by any individuals specifically named in the complaint as having been discriminatorily discharged, laid off, or refused reinstatement.

I respectfully submit that a considerable body of testimony by the Respondent's counsel, consuming a vast amount of time, was introduced at Canton during which there was shown a great number of acts of alleged violence in no way connected with the parties involved in this proceeding; and I offer by way of illustration the incident of a railroad train of the Respondent Company running wild, and the conclusion of counsel for the Respondent that the responsibility of the act was by inference that of the C. I. O., by

his comment; "Who else would do it?" at Page 4144 of the record as illustrating the position of the Respondent in this case.

I respectfully state, Mr. Trial Examiner, that it is shown by counsel for the Respondent that a member of the C. I. O. who is identified and named as committed an act of alleged violence cannot be tantamount to fixing responsibility upon all strikers in the locality of the alleged violence at the time of its occurrence. That if the individual who has committed an act of violence is not named but is identified because for example: He wore a C. I. O. button, his actions cannot bind the entire membership of the C. I. O., and that if as in so many instances of proof of alleged acts of violence in Canton and Massillon, the party committing the act of violence was identified only as a member of the group, some of whom were C. I. O. members; certainly no responsibility can be fixed for the action. The Respondent in this case in its proof at Canton and Massillon has gone to even greater lengths and has introduced testimony of acts of alleged violence by individuals in no way identified or connected with the C. I. O.

By way of illustration I refer to the testimony of David Diamond offered by Respondent on Pages 3625 to 3641, and Horace T. Wertz on Pages 3617 to 3621, and George McKenzie on Pages 3621 to 3625, and E. D. Gibson on Pages 4110 to 4115: The violence by unidentified individuals is most certainly in this case not in issue. It was to be hoped that after the testimony introduced in Canton and Massillon counsel for the Respondent would commence to meet the issues and offer some defense to the proof of specific instances of violations of the National Labor Relations Act by Respondent Company to the specific evidence introduced by counsel for the Board that organizers for the Steel

Workers Organizing Committee would be trailed by the agents of Republic in Canton, Massillon and Youngstown and other cities in which Republic has plants. The Respondent significantly has failed to introduce any defense testimony.

I therefore respectfully object to the testimony concerning alleged acts of violence on June 9th, 1937, and June 19th, 1937, and state that my objection is based on the fact that it serves only to delay the proceedings in this case; and I object further and restate it on the ground that it is incompetent, irrelevant and immaterial and also that it has not been gone into in the Board's case in chief, and that it is outside the scope of the issues of this case, and that it is incompetent, irrelevant and immaterial.

MR. DAY: May I ask you at this time whether or not you contend that the Board has introduced some evidence in support of each and every charge in the complaint?

MR. LAUTER: Well, in respect to that, if you please, Mr. Trial Examiner, the record is the best evidence of what we have shown in connection with the allegations.

TRIAL EXAMINER LINDSAY: Yes, that is right.

MR. LAUTER: I think it will have to speak for itself.

MR. DAY: May I ask you this question. Assuming that according to your theory of the admissibility of certain evidence, the witnesses are able to identify one or all of the persons engaged in the riot or violent and disorderly conduct—

TRIAL EXAMINER LINDSAY: Well, may I stop you there?

MR. DAY: Does that make the evidence admissible as against him?

TRIAL EXAMINER LINDSAY: May I stop you right now on that line of questioning because Mr. Lauter is not on the witness stand.

MR. DAY: I am just trying to find out how broad his position is.

TRIAL EXAMINER LINDSAY: I do not permit those things, Mr. Day.

MR. DAY: All right, now I want to state, Judge Smith may also have some statement to make as to why we believe this evidence is admissible. In the first place we believe and submit that the evidence is competent, relevant and material under the charges presented in the complaint, under the assertion and allegations of the answer of the Respondent and under the issues presented by the complaint and the answer not limiting ourselves to any particular charge contained in the complaint we call attention at this time to paragraph 38 of the complaint as follows: "The respondent by its officers and agents at its plants, Youngstown, Canton, Massillon, Warren, Niles and Cleveland in the state of Ohio has interfered and still does interfere with the right of its employees peacefully to picket said plant and has and does intimidate its employees of said plant by shooting at them and by throwing bottles and other dangerous missiles thereby interfering with restraining and coercing said employees in the exercise of their right in self-organization in the meaning of Section 8 Subdivision 1 of the said Act."

We submit that the evidence here under consideration is admissible with relation to this paragraph of the complaint and that it tends to show whether or not the picketing by the strikers in whose behalf the S. W.

O. C. has sought to institute this action has in fact been peaceful. We think we have the right to show under this paragraph and the issues joined thereon the character of the picketing. If the picketing is unlawful violent or in any other way violates the law governing these subjects Respondent has the right to show it. We believe also that this evidence is clearly admissible, not limiting ourself to any particular allegation in either the complaint or the answer in support of Subdivision N on page 9 of the respondent's answer.

Your Honor will note that in the answer the Respondent says that the complaint should be dismissed for certain reasons and then proceeds to set forth various reasons as marked by a letter subdivision, subdivision 9 is that the complaint should be dismissed because the individuals, groups and organizations in whose behalf the Steel Workers Organizing Committee purports to act in filing the charges aforesaid with the National Labor Relations Board have themselves been guilty of many and repeatedly wholly unprovoked and unjustified acts of violence, coercion and intimidation against the respondent and its employees such as to deprive those who filed the charges aforesaid, of any standing as to them and to require the National Labor Relations Board to dismiss the complaint predicated upon such charges. In view of the character of this proceeding and of the relief which may be granted the complainant in seeking any specific relief and not being required so to do as we understand it under the terms and provisions of the National Labor Relations Act, we think evidence relating to the conduct of those in whose behalf these charges have been filed is clearly relevant, material, admissible and competent and should be received and considered by the Board.

This proceeding is somewhat in the nature of an

equitable proceeding. Relief is being sought in behalf of those represented by the S. W. O. C. We think that the Board should consider the evidence relating to the conduct of the strikers whether or not they have acted lawfully, whether or not they have been guilty of violence as bearing upon the question as to whether or not they are entitled to any relief and if so the extent and character of that relief. In other words, take the position that when charges are filed in behalf of those who are on strike at the places named in the complaint and the character of the relief is to be based upon the facts found and there is no statement in advance of the relief sought that we have the right to offer evidence in behalf of the Respondent tending to show that the strikers in whose behalf this action has been brought has been guilty of violence and unlawful conduct. They carry clubs, gas pipes, baseball bats and without enumerating the various acts of violence that we many generally go into that whole subject as bearing upon the question as to whether or not they who seek relief here are, upon all of the facts in the case and the law applicable to those facts entitled to the relief sought or to any relief, upon the state of the record.

Something has been said here about the character of the evidence introduced by the Board. We wish to say now and to make it quite emphatic—

TRIAL EXAMINER LINDSAY: Mr. Day, on that particular point—this is off the record at the present time.

(Discussion off the record.)

MR. DAY: Mr. Lauter has called attention to the fact that the Board has introduced evidence tending to show some specific acts upon the part of the respondent with relation to the strikers in whose behalf this action is brought and has suggested that the evidence in that regard by the respondent or that the evidence offered

by the respondent should be limited to some extent by the evidence offered by the Board. That is, that the respondent should be limited to evidence which meets the specific charges contained in the evidence offered by the Board. We take the position that that is absolutely unsound, that the Board cannot select specific instances of alleged unlawful conduct upon the part of the respondent with relation to certain strikers or those allied with the strikers and then limit the introduction of respondent's testimony to that which meets directly the evidence thus introduced by the court.

MR. LAUTER: I don't like to interrupt Mr. Day, but that is not the position which I have taken in my statement.

MR. DAY: I think you took it on that one branch of the case. I want to state my position. I want to say now that the respondent takes the position that the complaint here is not broad enough to be made the basis of any order requiring the reinstatement of any employees of the respondent now allied with the strikers except who are definitely named in the complaint, as having been discriminated against by the respondent.

TRIAL EXAMINER LINDSAY: Well, just a minute now, Mr. Day.

MR. DAY: I want to make this statement in the record.

TRIAL EXAMINER LINDSAY: It is in the record, but I want to talk to you.

MR. DAY: All right.

(Discussion held off the record.)

MR. DAY: When I say "now allied" I want to say "now allied" or at any time since the strike was called allied with the strike. If the Court should hold as suggested by Mr. Lauter that evidence of any unlawful conduct upon the part of persons actually named in the complaint could be offered by the Respondent, we

contend as a proposition of evidence and as a proposition of law that those who are named in the complaint as having been discriminated against, are liable not only for their own conduct and their own unlawful conduct and any violation, if such appear to be the proof, but that they are all liable also for the conduct and acts and unlawful acts of the other strikers with whom they have allied themselves and with whom they have been acting in concert in this proceedings. We take the position as a matter of evidence and as a matter of law that the evidence in this case having disclosed that a strike was called by those in whose behalf this action was instituted, that picket lines have been established, that the members of the C. I. O. are party to that strike and are participating therein. That they are acting together and in concert in conducting the picket lines. That each and everyone of those strikers, under those circumstances, as a matter of evidence and as a matter of law are responsible for the conduct of each and all of the others. That being true, we contend that if Abie is named in the complaint as having been discriminated against by the respondent, that in considering his case we have the right, for the respondent, to offer evidence tending to show that Abie has been guilty of unlawful conduct and violence and so forth and, more than that, that those with whom Abie has allied himself and with whom he has acted in concert, have been guilty of acts of violence and unlawful conduct and, in short, we contend, with respect to the contention made by Mr. Lauter, counsel for the Board, it isn't necessary for us, in order to make the evidence of violent acts and conduct, which we are offering and shall continue to offer, admissible, for us to identify any man named in the complaint as having been discriminated against or for us to identify any individual in the unlawful acts. That if the evidence

shows that the unlawful acts have been committed by those who are strikers, who have entered upon the picket line and have and are engaging in acts and conduct of unlawful and violent nature, that that is sufficient to make the evidence admissible in behalf of the Respondent.

Mr. Lauter referred to some evidence in relation to a railroad train. I want to state our position upon that subject.

We believe that evidence was admissible and still think it was admissible for the reason that the evidence disclosed that on the night of July 11th at Massillon there was a disturbance and riot, in which strikers participated, at the east end of the viaduct; that shortly after that there was a disturbance and riot, concerning which both sides have offered evidence, in and around C. I. O. headquarters; that the same night or the morning, after midnight of that same period of time, a railroad train was stoned. We could not identify those who threw the stones, but we think the fact that they were thrown, under the circumstances detailed, made the throwing of the stones something which we had the right to introduce into evidence. There may be other reasons why we believe this evidence is admissible. We haven't prepared any written statement of it, we are simply stating from our recollection of it at this time, and are expressing to the court the ideas and views which occur to us at this time.

We do not wish to be limited at any time and I don't think the Examiner will seek to limit us at any time to merely the thoughts and views here expressed. In conclusion, as far as I am concerned, I want to say that it seems to me that if we are not permitted to offer and have received and considered evidence of the char-

acter or nature in a proceeding of this kind that those who are allied with the strikers will be granted greater rights and greater consideration than the courts have given to those similarly situated in similar proceedings.

By way of illustration, we do not believe that if the evidence in this case discloses that the strikers had burned down one of our plants or had murdered some of our officers or employees that we would not have the right to show, in this kind and character of proceeding that they had done those things, as having a bearing upon the proposition whether or not they were entitled to any relief at all or whether or not they, the Labor Board should dismiss the complaint because of those acts of misconduct. Now, of course, there is nothing like that in this case, that is an extreme illustration suggested, as your Honor well realizes, only for the purpose of illustration. But we think the evidence of witnesses for the Respondent offered and sought to be offered as to acts of violence and lawlessness is of the character to a lessened degree much lessened degree than that mentioned.

The act itself provides, as the Court well knows, that the persons so complained of shall have the right to file an answer to the original or amended complaint and appear in person or otherwise and give testimony at the time and place—at the place and time fixed in the complaint. We think that under that provision we have the right to offer any evidence which we believe is relevant, competent and material and that it should be received by the Trial Examiner and should be considered by him in making his findings of fact and that we are deprived of a right guaranteed to us by the Labor Act itself if this evidence is not received.

Now, it is further provided that, in Subdivision C of Section 10—

TRIAL EXAMINER LINDSAY: What page?

MR. DAY: I haven't got the same book you have, Judge.

JUDGE SMITH: It is 23 on your book, I think. Is your book the same as this one?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: It is on page 23.

MR. DAY: "That if the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice then the Board shall state its findings of fact * * * requiring such person to cease and desist" * * * and so forth * * * "such unfair practice, and take such affirmative action with or without back pay that will advocate the policy of this Act." Then it says "that if upon all of the testimony taken by the Board, shall be of the opinion * * * is engaging in any such unfair labor practice * * * and the Board shall state its findings of fact * * * shall issue an order dismissing the said complaint."

We believe that under the provisions of that part of the act we have the right to offer this evidence, have it admitted and received and have the findings of the Trial Examiner as to the facts, predicated upon this evidence, together with all of the other evidence that the Board has introduced and the evidence which we have introduced, in addition to this now under discussion; for these reasons and other reasons which may undoubtedly occur to us, there being no limitation, I understand, as to all the reasons, I am giving now orally, we believe the evidence here is competent, relevant, material, and admissible under the issues joined here and under the charges in the complaint, under the express allegations of the answer, under the Labor Relations Act itself, and that it would deprive us of rights guaranteed to us by the Act to have that evidence ruled

out.

TRIAL EXAMINER LINDSAY: May I have the complaint, please?

JUDGE SMITH: I would like to make a short statement.

TRIAL EXAMINER LINDSAY: It will have to be very short, Judge.

JUDGE SMITH: I have some ideas that I want to put into this record, your Honor, and I'll try to limit them as short as I can, but I think the reason I have is good reason—

MR. DAY: I want to say also, Mr. Trial Examiner, with due respect, I think that—

TRIAL EXAMINER LINDSAY: I am not referring to your statement.

MR. DAY: You are not? I thought you were characterizing that as an argument. All right.

JUDGE SMITH: The reason why we think that this evidence is competent and evidence of this character is competent, and as I understand it, the objection extends not only to the evidence that has been—that we expect to introduce by this witness but all evidence of a similar character. Now, without—

TRIAL EXAMINER LINDSAY: May I state, all evidence of a similar character which may be attempted to be produced, is that your understanding?

JUDGE SMITH: Yes. Now, calling attention to paragraph 17 on page 5 of the complaint and without in any way limiting this statement to that, but to the other matters, it is alleged that the respondent has compelled a considerable number of employees at its Warren plant, Warren, Ohio, plant, to remain at their jobs within said plant, and has threatened said employees with discharge and loss of seniority right and vacation privileges if they left its said plant and joined the employees who went out on strike, thereby interfer-

ing with, restraining and coercing its employees in the exercise of their right to self-organization within the meaning of Section 8, Subdivision 1 of the said Act.

In order to meet the issue of this charge, this evidence is admissible to show the character of picketing as bearing on whether the employees in the plant could have left or could have returned to the plant in the event they did leave, this bearing on the question whether the employees in the plant could leave the plant in the manner in which they ordinarily did, as to whether they felt they would suffer injury or bodily harm; bearing on the character of picketing that was done. We also think that this is admissible, based on the sections of statutes of Ohio—

TRIAL EXAMINER LINDSAY: Well, that's entirely out. We are not trying the case under the Laws of the State of Ohio.

JUDGE SMITH: Your Honor, we expect to offer two sections of the Ohio statutes in which is described a mob and the liability of a mob for any acts of the mob.

MR. LAUTER: At this time—

JUDGE SMITH: —and I wish to read, as a part of the reasons why I think this is competent, Sections 6278 of the Ohio Statutes—

TRIAL EXAMINER LINDSAY: May I see those just a minute? We are getting into just the thing we should not get into.

(Discussion off the record.)

JUDGE SMITH: I also desire to read into, as a part of the reasons why this evidence is admissible, Section 6287 of the Ohio Statutes.

(Discussion off the record.)

JUDGE SMITH: Now, we think this testimony is competent, of this witness, for the reason that he has already testified that he found the pickets massed across from the entrance to the Republic at Stop 5,

and that a number of women, working in concert with the pickets, that were seated in the entrance, and that he went to the headquarters of the C. I. O. to interview Mr. Fagin, Mr. Charles Fagin, who was in charge of that territory, in charge of the C. I. O. in that territory where they were picketing, and that Mr. Fagin not being there, that Mr. DeBozzy who he recognized as the captain of the pickets that had charge of the pickets in the vicinity of Stop 5, and that he requested him to comply with this, and that it was not done and this testimony would show the results of the failure on the part of Mr. DeBuzzy who is in charge of these pickets to comply with his request as an officer of the law.

We also think this is admissible for the reason that the conditions in the city of Youngstown and in the strike area had gotten beyond the control of the civil authorities, and that the civil authorities were reinforced by—

MR. LAUTER: This is all argument on the merits of the case.

TRIAL EXAMINER LINDSAY: Yes, I'll have to sustain an objection to that type of argument because the evidence—After all, Mr. Smith, we have to go into the things that are absolutely in the record when you talk about evidence.

JUDGE SMITH: We can't confine it to these things that are already in the record for the reason you are not allowing us to put in the facts and conditions that are existing here. If you will permit us to do that, we will stay in the record. I feel that on account of this situation, that, here was an unlawful riot, and conditions here had gotten to such—

TRIAL EXAMINER LINDSAY: Off the record for the time being entirely.

(Discussion off the record.)

JUDGE SMITH: We contend that this is competent, and cannot concur with the conclusion reached by Mr. Lauter, that where there are isolated acts, that they are to be treated in the same manner as acts of persons in concerted action.

Now, it is our contention that, at this point, there was a concerted act there; that these strikers and the pickets were acting under the leadership of their recognized superior officers that were in this organization and, therefore, that when they are acting in concert and that when they are acting in there, in that capacity, under an organization, they have entered into a conspiracy to carry out this purpose and if that purpose is an illegal purpose, that every person who takes part in this concerted action becomes a part of it and is responsible for everything that is done by any of them. Now, that is our contention.

We believe this to be competent on that ground and that being true, it is a defense to the claim that they make in their petition especially as to lawful picketing and peaceful picketing. Now, if we are charged with interfering with peaceful picketing, we certainly have a right to show that it was not peaceful picketing, and we have testimony already in this record that shows throughout the time of this—that these pickets were on the line—were on the picket line, they were carrying clubs and conducting it in an unlawful manner and not in a peaceful manner.

Now, this evidence that we desire to introduce reaches that point exactly and in our opinion is competent for the purpose of refuting the charge that is made against us, that is, as to interfering with peaceful picketing. We further contend that it is competent from the standpoint that the Wagner Act does not in any way curtail the right of the employer to select and hire an employee and that in showing the attitude

and the things that happen at this point, that the employer is entitled to take those matters into consideration, of the unlawful acts in connection with rehiring or discharging an employee. That is all I can think of now.

MR. DAY: May I add this and I will be very brief about this. We think this evidence is also admissible as tending to show that the strike was an unlawful strike from the time the pickets carried clubs, gas pipe, ball bats and similar weapons, if I may use that expression, and engaged in acts of violence, and that if the strike was unlawful and had become unlawful everyone engaged in the strike is charged with that unlawfulness and that that issue is in this case as bearing upon the question as to whether or not and to what extent these strikers are entitled, or *any of* them are entitled, to be reinstated. Thank you.

TRIAL EXAMINER LINDSAY: After having heard arguments by counsel for the Board and arguments by counsel for the respondent, the objection made by Mr. Lauter representing the Board is sustained for the reasons stated in his argument, that is, the argument of Mr. Lauter. The sustaining of that objection does not cover anything except as stated by the attorney representing the Board, and let the record show an exception. We will recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: We will adjourn to Monday morning, September 20, 1937, at 9:30 a. m.

(Whereupon, at 11:45 a. m. September 18, 1937, an adjournment was taken to 9:30 a. m. September 20, 1937.)

Court of Appeals Room,
Mahoning County Court House, Youngstown, Ohio,
Monday, September 20, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:30 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

WILLIAM HODGE CUMMINGS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Now, may the record show that permission to withdraw Captain Richmond and substitute Mr. Cummings as the witness is given?

TRIAL EXAMINER LINDSAY: Yes.

Q. Your full name, Mr. Cummings?

A. William Hodge Cummings.

Q. Where do you live?

A. 1520 Kensington Avenue, Youngstown, Ohio.

Q. You are employed by the Republic Steel Corporation?

A. I am.

Q. In what capacity?

A. As a machinist.

Q. I beg your pardon?

A. As a machinist particularly looking after the welding equipment; welding and acetylene equipment.

Q. How long have you been so employed?

A. It will be five years in April.

Q. Where were you employed prior to the time you became an employee of the Republic Steel Corporation?

A. Jones & Laughlin Corporation of the Aliquippa Steel Corporation.

Q. How long were you there?

A. 21 years.

Q. Do you remember when the Employees Representative Plan in the Republic Steel Corporation was first started?

A. No, I don't.

Q. Well, it was—

A. It was in existence, I think, when I came here if I am not mistaken; I am not just certain about that.

Q. Well, on this—did you have any official position with the Employees Representative Plan?

A. None.

Q. Did you participate in elections that were held in the plant after the Employees Representative Plan—

A. I voted.

Q. Yes. Did you hear anything in regard to any change of any kind that was made in this Plan after the

Supreme Court had passed on the Act along in April of this year?

A. Yes, sir.

Q. What was it that you heard as to the change?

A. I heard that owing to the passage of the Wagner law that the Representative Plan automatically ceased to exist—

TRIAL EXAMINER LINDSAY: Now, just a minute.

(Discussion off the record.)

Q. Do you refer to the passage of the Supreme Court decision on the Act?

A. Well, probably the Supreme Court decision was what—I based—

Q. At any rate, the change you speak of was in April of this year, is that correct?

A. About that time.

Q. So that in reality you refer to the Supreme Court decision instead of the passage of the Act?

A. Yes.

Q. About the time that you speak of, of this change in the plan, was there any—

MR. LAUTER: I am sorry to interrupt you, Mr. Smith. I want to note an objection in the record and strike the answer with respect to the organization of the Employees Representative Plan "ceasing automatically" as of a certain date. This witness apparently from the testimony—

TRIAL EXAMINER LINDSAY: It should be stricken.

MR. LAUTER: May I finish my objection, Mr. Trial Examiner?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: This witness, as it appears from the testimony already given, held no office in the organization. Although he worked for the Respondent,

he does not realize that he was there when the organization was formed. Generally has very little knowledge about it, from the testimony thus far given. I move to strike the answer with respect to whether or not the organization known as the Employees Representation Plan ceased to exist automatically on a certain date.

THE WITNESS: Well, I beg your pardon, that was just my understanding of it.

TRIAL EXAMINER LINDSAY: Well, as far as the word "automatic" is concerned, that is stricken from the record. Change your question, find out whether or not he actually knows, if he is testifying from the fact, or if he is testifying from his knowledge.

Q. (By Mr. Smith) Do you know what, if any, change was made in the Representation Plan in connection with the Supreme Court decision? Do you know of your own knowledge about that?

A. Well, my own knowledge was just news from what was in the newspapers, and what I heard in the plant.

Q. Yes.

A. That the corporation could no longer have an organization at least that they controlled, and that the working men would have to effect an organization of their own, if they wanted it.

Q. I see. That was your understanding?

A. That was my understanding.

MR. LAUTER: May I have the answer read back?

TRIAL EXAMINER LINDSAY: Yes.

(The last answer read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, the rest of your objection is overruled and let the record show an exception. In other words, the only part sustained is as to the one word "automatic" and that is stricken from the record. All right, you may proceed.

Q. About this time, Mr. Cummings, was there any activity relative to a strike of the employees of the Company, and if so, what?

MR. LAUTER: May we have the time fixed?

JUDGE SMITH: Latter part of May.

A. Oh, yes, certainly. Everyone knew of it.

Q. Do you recall of there being a petition circulated in the mill for signatures prior to the time this strike was called?

MR. LAUTER: Sorry to interrupt. I want to move to strike the last answer in respect to 'what everyone knew.'

TRIAL EXAMINER LINDSAY: Yes, that part is stricken. Mr. Witness, you can't testify to about what someone else knows; in fact, you don't know just what Mr. Smith is just thinking of therefore you could not testify to that fact, so only testify to facts you yourself know.

THE WITNESS: Well, I knew—.

JUDGE SMITH: Read him the last question, please.

MR. LAUTER: Object to the question as leading and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Well, your objection is overruled; let the record show an exception.

Q. (By Judge Smith) What, if anything, did you have to do with either the preparation or circulation of this petition, Mr. Cummings?

A. I dictated a petition and had it typewritten and took it to the men in the machine shop to have them sign it.

Q. Yes, sir.

MR. LAUTER: I can't hear what the witness is saying.

TRIAL EXAMINER LINDSAY: Read the answer, will you please? And talk just a little louder.

THE WITNESS: Yes, sir.

(Question repeated.)

Q. (By Judge Smith) Do you have that petition?

A. No.

Q. Do you know what became of it?

A. No.

Q. What was the nature of the petition, that you prepared and circulated, and the purpose of it?

A. The purpose of it was to ask the Mayor for police protection so that those who did not strike could have protection going to and from work in the event of a strike, that's the substance of it. I don't recall the words.

Q. Did you sign that petition?

A. I did.

Q. Did you discuss this matter with any of your fellow employees?

A. I didn't.

Q. Just state how you came to prepare the petition and circulate it, Mr. Cummings.

A. There was going to be a strike; to the best of my knowledge. I didn't want to strike, and anxious to do anything I could to avert the strike, and for that reason I prepared this petition.

Q. Was it for the same reason you circulated it and caused it to be circulated?

A. It was for the same reason that I took it around through the machine shop.

Q. And in taking it around through the machine shop, what was your purpose for that?

MR. LAUTER: Objection to what the purpose of the witness was.

MR. DAY: I think that it is relevant.

MR. LAUTER: I object to it on the ground it is incompetent, irrelevant and immaterial.

JUDGE SMITH: Certainly he—

TRIAL EXAMINER LINDSAY: Wait a minute.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: I will sustain the objection to that question. Let the record show an exception.

JUDGE SMITH: Exception.

Q. Do you know whether or not the men or the number of men in the machine shop that signed the petition, if any did?

A. I don't know the exact number. About one-half.

Q. About one-half?

A. Yes. That is, on the day turn.

Q. Yes. You were working on the day turn, were you?

A. Yes, sir.

MR. LAUTER: I move that the answer be stricken because it is vague and indefinite. One-half as a figure does not mean anything.

TRIAL EXAMINER LINDSAY: Well, it is an estimate. You may cross-examine on it. Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Do you know how many people were working in the machine shop on the day turn? Approximately?

A. Oh, no. Approximately—

MR. LAUTER: Will you read that answer?

(The last answer was read.)

THE WITNESS: Approximately—

MR. LAUTER: If the answer is "No," I move to strike any further answer.

MR. DAY: He is giving his answer.

MR. LAUTER: His answer was "No," as far as I could make out.

TRIAL EXAMINER LINDSAY: Well, objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

A. I don't know accurately how many signed it, nor do I know accurately how many were working on the day turn. I would say about 60, at least.

MR. LAUTER: I move that the answer be stricken unless that answer be amplified. Either 60 signed the petition or 60 were on the day turn.

JUDGE SMITH: I asked how many were there.

MR. LAUTER: It is not clear to me. Will you clear that up, Judge Smith?

TRIAL EXAMINER LINDSAY: Just a minute; stop arguing.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Will the Reporter read the last question and answer in full?

(The last question and answer were read.)

TRIAL EXAMINER LINDSAY: The answer is ambiguous because we don't know what he is talking about. So clear that up.

JUDGE SMITH: I will ask him on that.

Q. The sixty that you speak of, do you mean that there were approximately 60 men who worked in this plant on the day turn, or approximately 60 who signed the petition?

A. Men working.

Q. Yes. Then your former answer as to half would mean one-half of your approximation of 60 men, is that correct?

A. Yes, sir.

Q. Did you attend a meeting in what is known as the district office somewheres along around the middle of May of 1937, at that plant?

A. Yes.

Q. Do you recall of a meeting being held on the 19th of May?

A. Not that particular date. I don't recall the date.

Q. I refer your attention to a meeting that was held there in which, I believe, there was an election of temporary officers for the Independent Federation of Employees. Do you recall that meeting?

MR. LAUTER: I object. The question is obviously leading the witness.

MR. SMITH: I am directing his attention to a meeting that was held. He does not have the exact date, but I am asking him if he remembers that meeting.

MR. LAUTER: Judge Smith is testifying for the witness with respect to a meeting which may or may not have taken place, as to an election which may or may not have taken place.

TRIAL EXAMINER LINDSAY: Judge Smith, now try not to lead him.

MR. SMITH: I am only asking him for the purpose of directing his attention to the meeting, and inquire as to what took place.

MR. LAUTER: There is no evidence that the meeting was ever held, except Judge Smith's statement.

MR. SMITH: I understand, but I am directing his attention to a meeting at that time and asking him if he attended.

TRIAL EXAMINER LINDSAY: Well, listen, now, quit asking those leading questions. After all, the witness is supposed to give his testimony on the witness stand.

MR. SMITH: I will change that. But, your Honor, I have always understood that in examining a witness you had a right to direct his attention to a certain thing and ask him what he knew about it.

TRIAL EXAMINER LINDSAY: Read the question.

(The last question was read by the Reporter.)

TRIAL EXAMINER LINDSAY: Now, that has your own conclusion in that question, that there was an election and that the officers were elected. Now, there is not a bit of proof in the testimony that there has been an election; there is nothing in the testimony to show that there has been officials elected to anything, and if that is not a leading question, why then there isn't any such thing. I will sustain objection to that question.

MR. SMITH: May I have an exception, if you please?

TRIAL EXAMINER LINDSAY: You may have an exception.

Q. Did you attend a meeting at the district office along about the middle of May, 1937?

A. I did.

Q. You may state what occurred there, Mr. Cummings, as near as you recall.

A. Well, the mechanical department had a number of meetings there.

MR. LAUTER: Object to the answer as not responsive and move that it be stricken.

TRIAL EXAMINER: Yes, that may be stricken.

Q. I refer to a meeting around the middle of May, if you remember of any such meeting.

A. All the meetings were around the middle of May.

MR. LAUTER: Object to the answer and move it be stricken as not responsive.

THE WITNESS: I recall a meeting—.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

THE WITNESS: —at which there was a temporary organization.

Q. A temporary organization of what?

A. To take the place of the organization that had passed out of existence.

Q. Do you recall when that meeting was held?

A. In May.

Q. And where was it held?

A. In the old—, I think they call that the old Board Room.

Q. Now just state what took place at that time as you recall it?

A. At that particular meeting the main thing that took place was the election of temporary officers.

Q. Do you recall who were elected as temporary officers?

A. Mr. John Smith was elected president. Mr. Axelson was elected treasurer, the other man, I don't recall his name, Chinelworth or something like that. It starts with C-h-i-n—, I don't just recall.

Q. You just don't recall his exact name?

A. I don't recall his name. He was secretary.

Q. Did you participate in any way in that meeting?

A. Well, I was asked to talk at the meeting and I talked.

Q. Now in connection with this, after your temporary organization that you speak of, do you [know] what, if any, activities there was prior to the time of the strike?

MR. LAUTER: Object to the question as containing a conclusion. There is no testimony given by this witness that the organization was temporary. It is an assumption of state of facts that are not on the record.

JUDGE SMITH: He said that temporary officers were elected.

TRIAL EXAMINER LINDSAY: Well, I'll overrule your objection. Let the record show an exception. Mr. Smith, just try to get this in briefly.

JUDGE SMITH: I am just asking him what he knew of the acts.

TRIAL EXAMINER: Let him do the testifying.

JUDGE SMITH: I don't know how more general I could ask him than to describe what activity he knows of, of his own personal knowledge prior to the strike.

THE WITNESS: Read me the question.

(Question repeated.)

JUDGE SMITH: On the part of this temporary organization.

TRIAL EXAMINER LINDSAY: Just a minute. Doesn't the organization have a name?

JUDGE SMITH: Yes.

Q. What was the name of it?

A. Independent Federation of Republic Employees, I believe.

TRIAL EXAMINER LINDSAY: Now, strike out "temporary organization" from the record as a part of that question and call it Independent Federation of Republic Employees.

JUDGE SMITH: Let me withdraw that and I will reframe the question. If I may withdraw it, I will reframe it?

TRIAL EXAMINER LINDSAY: Yes.

Q. After the night you speak of where the temporary officers were elected, state what activities you know of that occurred prior to May 26th; the day of the strike of the Independent Federation of Republic Employees.

A. There was one—at least one meeting after that and maybe two.

Q. Did you attend the meeting?

A. I attended at least one of them.

Q. Now, state what was done; what was the purpose of the meeting.

A. Well, the real purpose of the meeting was to try to avert the strike.

Q. What if any action do you know of was taken at that meeting in connection with that purpose?

A. I don't recall any particular action. That was the general purpose of the thing.

Q. Now, do you recall the date on which the strike occurred?

A. The 27th, I believe.

MR. LAUTER: I didn't hear the answer. Will you read that?

(The last answer was read.)

JUDGE SMITH: I think it will be agreed that May 26th was the strike. We will establish that.

Q. Were you working the day of the strike?

A. I was.

Q. What time did your turn finish?

A. 3:30 p. m.

Q. Do you know what time the strike was called for on that day? That is the day that the men went out?

A. Only by general information that it was at 11 o'clock.

Q. Then you weren't in the mill at the time the strike occurred?

A. No.

Q. Did you go back in the mill following the strike?

A. I did.

Q. When

A. The day the gates were open.

Q. How long was that after the time that the strike occurred, if you recall?

A. About a month.

JUDGE SMITH: I see.

Q. Now, do you know anything about the activities of this Independent Federation, after the strike and before the time you went back to work?

A. They had offices in the Dollar Savings & Trust Building and were active in—

TRIAL EXAMINER LINDSAY: Strike out the word "active". You can tell only what they did.

A. They had offices in the Dollar Savings & Trust Building.

Q. That is, were you ever in their offices?

A. Almost every day.

Q. Who was in charge of the office there if you know?

A. Mr. John Smith.

Q. You refer to the John Smith who was elected president of the Independent Federation?

A. Yes, sir.

Q. And who else was in there, if you know?

A. Oh, a number of men, in and out.

Q. Do you know what was being done at this office, and the purpose of having an office there?

A. They had a petition to go back to work.

Q. That was in the office?

A. Yes, sir.

Q. Who had that petition?

A. Well, it was just in the office.

Q. You may state whether or not you signed that petition?

A. I did.

Q. Did you do anything yourself in connection with procuring or trying to procure anyone else to sign it?

A. No.

Q. Do you know of your own knowledge whether other employees did sign it?

A. I do, yes.

Q. Do you remember when it was you signed it?

A. No.

Q. Do you remember the day at which, as you speak of here, the mills opened, that you went back to work? Do you remember what day in the month it was and what month?

A. I do not recall the date.

MR. SMITH: Now, your Honor, that has been established by so much evidence, may I have the right

to call his attention to the date and then refer to that from there on.

TRIAL EXAMINER LINDSAY: This is off the record.

(Discussion held off the record.)

Q. What work did you do when you went back to the mill and went to work?

A. As soon as I got back I fixed up around my bench and went to work.

Q. At your same job?

A. At my same job.

Q. Have you, Mr. Cummings, attended since that time any meetings of the Independent Federation of Republic employees?

A. I have.

Q. And where was the meetings that you have attended held?

A. Central Auditorium.

Q. Where is that?

A. Over here on Boardman Street.

Q. And what was the nature and the purpose of the meetings that you attended?

A. Adopting a constitution and by-laws.

Q. Of what?

A. For the Independent Federation of Republic Employees.

Q. Now who was there officially in charge of that meeting, if you know?

TRIAL EXAMINER LINDSAY: Strike out the word "officially."

JUDGE SMITH: All right.

Q. Who was there, if you know, in charge of the meeting?

A. I don't know the name of the man who presided at the meeting, nor do I know the name of the lawyer who read the constitution over, section by section.

Q. And it was read over, was it, section by section?

A. It was.

Q. And what, if anything, was done as the sections were read over?

A. Then each section was voted on.

Q. And were the documents there presented—, you may state whether or not the documents there presented, this constitution and by laws, was adopted at the meeting you refer to?

A. It was.

MR. LAUTER: Object to the question and move the answer be stricken on the ground, the minutes of the meeting are the best evidence of what happened in respect to action taken. I am not objecting to the testimony as to the meeting, I am objecting to the testimony whether or not particular action was taken by that body on the constitution and by-laws.

TRIAL EXAMINER LINDSAY: Yes, he would have a right to testify that a vote was taken, but that is as far as he could go. There is no doubt about that, so the objection is sustained. Let the record show an exception, and the answer is stricken.

Q. Was there a vote taken at this meeting on the constitution and by-laws?

A. There was.

Q. Did you hear any announcement from the Chairman who was presiding at this meeting as to what the result of that vote was?

A. The result was affirmative. That is, the constitution was adopted.

Q. Was that announcement made by the Chairman after the vote had been taken?

A. Yes.

JUDGE SMITH: Pardon me just a moment.

(Discussion off the record.)

JUDGE SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) Mr. Cummings, you are a machinist, is that correct?

A. I am.

Q. How long have you been working for the Republic Steel Corporation?

A. Five years in October.

Q. Do you know whether or not the Employees Representation Plan was inaugurated in the plant during the time you were working there?

A. I do not know that.

Q. You don't know?

A. I don't know.

Q. And if it was started some time in June, 1933, you don't know that, is that correct?

A. No.

Q. Do you know whether or not the Employees Representation Plan was ever formally dissolved?

A. I do not know that.

Q. Do you know whether a motion was ever passed either by the Representatives or the membership, dissolving the organization?

A. I do not know.

Q. You testified about a petition that you dictated?

A. Yes, sir.

Q. Did you dictate the petition?

A. I did.

Q. Yourself?

A. I did.

Q. To whom?

A. I don't know the man's name. He is a stenographer in the locomotive crane repair shop.

Q. Do you remember what day it was that you dictated the petition?

A. No.

Q. Do you remember the phraseology?

A. No, not exactly. "To the Honorable"—

Q. What was the substance of it? In substance, what was it?

A. "To the Honorable Lionel Evans. We, the undersigned, not wishing to strike, in the event of a strike, ask for police protection to enter and leave the plant." Now, that is merely the substance.

Q. Is that the substance of the petition that you yourself dictated?

A. Yes, sir.

Q. Did you dictate it alone?

A. Yes, sir.

Q. No one else was around?

A. Why, the stenographer was there.

Q. Besides the stenographer?

A. Well, there was several of the employees at the office at the time.

Q. Did they help you dictate it?

A. No, sir.

Q. It was your own phraseology?

A. It was my own phraseology.

Q. It was also your own idea?

A. Yes, sir.

Q. No one suggested it to you?

A. No, sir.

Q. You are sure of that?

A. I am absolutely sure of it, that is, no individual.

Q. What do you mean, no individual?

A. Well, I had heard of such things being done.

Q. Before you did it?

A. Yes.

Q. Where did you hear that such things were being done?

A. I can't remember exactly whether I got from the newspapers or had heard of it.

Q. Don't you recall whether or not it was being done in the plant before you did it?

A. No.

Q. Do you think you were the first one to draft a petition of that kind?

A. As far as I know, yes, sir.

Q. You said something about the newspapers, said you might have got the idea from the newspapers?

A. I said I might have gotten the idea from newspaper talk or something I had heard, that when there was a strike, that this had been done; now I don't recall whether or where, I didn't burden my mind particularly.

Q. Did you burden your mind with remembering when you did it?

A. I don't remember the date.

Q. Do you remember the place?

A. Yes, sir.

Q. That was in the plant, is that correct?

A. Yes, sir.

Q. On Company property?

A. Yes, sir.

Q. On Company time?

A. Yes, sir.

Q. And to whom did you go to have it typed?

A. I went to the—well, I went to the foreman of the locomotive train repair shop and asked him if I could have a stenographer typewrite a petition and he said: "That depends on what it was."

Q. Did you tell him what it was?

A. He stood there while I was dictating it and the stenographer—I was dictating it to the stenographer.

Q. Now, if I understand you correctly he said you could take it and have it typed if he knew what it was?

A. If he knew what I was dictating.

Q. Now, did he say what you were dictating? Did he see it typed?

A. I don't know that. No, I think not.

Q. Did he hear it dictated?

A. Yes.

Q. And did he register any disapproval?

A. No.

Q. Now, what happened after it was taken from the typewriter?

A. Then I went around to the members of the machine shop and asked them to sign it.

Q. Did you do that during the day?

A. Yes, sir.

Q. On Company property?

A. Yes, sir.

Q. On Company time?

A. Partly on Company time and partly on my own time and during the lunch hour.

Q. Do you know how many men there are in the machine shop?

A. Oh, I don't know. I would say about 60.

Q. I don't want you to say if you don't know. Have you got a reasonably clear idea of the approximate number of men that are working there?

A. About 60 men on that turn, I think.

Q. How many did you get to sign it?

A. The exact number, I don't have.

Q. Now, when you testified that about half signed it, is that correct?

A. About half.

Q. How do you know that half signed it?

A. Well, that is just the estimate in my own mind.

Q. Did you take it around and have half of them sign it themselves?

A. I took the petition around—

MR. LAUTER: Read the question to the witness.

(The last question was read.)

A. I believe all who signed it signed it when I presented it. Whether that is exactly half, I don't know.

Q. Now, you took it around and had approximately 30 men sign it, is that correct?

A. Yes, sir.

Q. You yourself took it around?

A. On the day turn.

Q. What is that?

A. On the day turn.

Q. That is right. Now, after you finished having the last one sign it, what did you do with the petition?

A. Whitey—a man by the name of Whitey—now, that is not his real name. It might have been another fellow and I don't know his name. Asked me to see a copy of that petition. I give it to him.

Q. And that was the last that you saw of the petition?

A. That is the last I saw of it.

Q. Now, that petition was addressed to the Mayor, is that correct?

A. Yes, sir.

Q. And you dictated the petition yourself?

A. Yes, sir.

Q. And you had the men sign it?

A. Yes, sir.

Q. And you were going to send it to the Mayor?

A. Yes. That was my intention.

Q. But you never did?

A. I never did.

Q. You handed it over to Whitey?

A. Yes, sir.

Q. Now, who is Whitey?

A. Well, he is an employee in the locomotive repair shop.

Q. Does he have any connection with the Employees Representation Plan?

A. I don't know.

Q. You don't know who he was? What his standing is in the plant?

A. Well, he is an employee there.

Q. Have you ever seen him before?

A. Oh, yes.

Q. Did you ask for the return of the petition?

A. I don't mind that I ever did.

Q. Didn't you care what happened to it? Whether it ever got to the Mayor?

A. Well, he was a very much more active man than I was.

Q. Active in what sense?

A. Well, he was a younger man.

Q. Was he active during the strike?

A. How is that?

Q. Was he active in presenting the strike? In trying to prevent it, do you know?

A. He seemed to be.

Q. Is that the reason you turned it over to him?

A. Yes, sir.

Q. Now, what else?

A. He asked me—the reason that I have turned him over it was that he asked me for it.

Q. How did he know that you were circulating the petition?

A. I don't know that.

Q. Did he come to you during working hours at the plant?

A. I presume so.

Q. And he asked you for the petition?

A. Yes, sir.

Q. Did you have much of a discussion about whether or not you would give it to him, or not?

A. No, I don't mind that there was.

Q. Now, you remember pretty well, don't you? That discussion that you had with him?

A. No.

Q. You don't remember it at all?

A. All—He and another gentleman, and they were very active men—I don't mind—I knew they were active in trying to avert a strike.

Q. Now, who was the other man, the other gentleman?

A. I don't know his name.

Q. What is that?

A. I do not know his name.

Q. Did he come along with Whitey?

A. Yes, sir.

Q. Now, what did they say to you when they came over to you?

A. Well, I don't remember that.

Q. Well, you try and recall.

A. Whitey asked me for a copy of that petition and I gave him the petition. I don't mind what was said.

TRIAL EXAMINER LINDSAY: Now, just a minute. Off the record entirely.

(Discussion held off the record.)

Q. Well, was there more than one petition?

A. I saw some afterwards, but so far as I was concerned, there was just one.

Q. There was just the one that you had dictated and had circulated?

A. How is that?

Q. The one that you had dictated and circulated?

A. In the machine shop, yes, sir.

Q. That is the only one you knew about at that time?

A. At that—

Q. At that time?

A. Yes, at that time.

Q. And that is the one that you handed over to Whitey when he asked you for it?

A. Yes.

Q. What else did you say to Whitey and the other gentleman? You try and recall the best you can.

A. Well, I do not recall.

Q. You do not recall saying a word to him?

A. I suppose we had some conversation, but I can't recall what that conversation was.

Q. All that you can remember of that conversation is that he came to you with another gentleman; Whitey asked you for the petition and you gave it to him, is that correct?

A. Yes.

Q. That is as much as you can remember of that incident?

A. Yes.

Q. You testified about a meeting in the district office sometime in the middle of May. Do you recall that meeting?

A. Yes, sir.

Q. Do you remember what time of day it was held?

A. In the evening.

Q. Did you get a notice of that meeting in advance of the meeting?

A. Yes, sir.

Q. Who gave you the notice that there was going to be a meeting?

A. I don't remember that.

Q. Was it a written notice?

A. No, just a verbal.

Q. Did you get that notice while you were working in the plant that day?

A. I presume so, I do not know that.

Q. Well now, you just try and recall, take a little time off and try to think whether you can remember that you got notice on that day in the plant?

A. No use of my trying to recall because if I would know at all, I would know at once.

Q. Now this is September, you know what month this is, what month is this?

A. This is September.

Q. And this meeting was some time in May, is that correct?

A. Yes, sir.

Q. Now let's see how much you remember of that meeting; you remember it was held in the District Office?

A. Yes, sir.

Q. You remember it was held at night?

A. Yes, sir.

Q. You don't remember who gave you notice of the meeting?

A. I do not.

Q. About what time did the meeting start?

A. Along about seven thirty.

Q. About how many people were there?

A. Well, the room was filled to overflowing, I would say a hundred and fifty.

Q. Who spoke at that meeting?

A. Almost everybody.

Q. Who was on the platform, who presided?

A. Now we are talking about the meeting when John Smith was elected, is that right?

Q. That is right.

A. Mr. Mark Murphy.

Q. Do you know what position Mark Murphy had under the Employees' Representation Plan?

A. Well, he was, he came to be head man of that, so far as the employees were concerned.

Q. Well, don't you know what position he held?

A. No, I don't.

Q. Do you know that he was chairman of the Plan?

A. No, I didn't even know that.

Q. Do you know he is an officer of the Plan?

A. Of the—

Q. Of the Employees' Representation Plan?

A. Of the Plan?

Q. That is right.

A. Yes, I knew he was some kind of officer.

Q. Did you see a number of other men sitting up on the platform that day, that night?

A. Well, Mr. Axelson, the treasurer, was there, and the gentleman who was the secretary. You understand, there is no platform, it is only just a plain room.

Q. Well, up in front weren't there a group of other representatives under the Plan, sitting there along with Mark Murphy, don't you remember that?

A. Beg pardon?

MR. LAUTER: Read that question.

(question repeated)

THE WITNESS: You mean officials of the Representative Plan?

MR. LAUTER: That's correct.

THE WITNESS: What?

MR. LAUTER: That is correct.

A. I don't think I knew any of them, only Mark Murphy.

Q. So that if there were other representatives, you wouldn't have recognized them, is that correct?

A. No.

Q. You testified that this was to take the place of the organization which had passed out of existence?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. That is, the Independent Federation of Republic employees?

A. Was to take the place of the Plan that had passed out of existence.

Q. When you talk about 'having passed out of existence' you don't know whether it actually passed or it didn't, do you?

A. No, I don't know that.

Q. When you say it had passed out of existence, you don't mean that, do you?

A. Well, that was my general understanding of it, that's as far as I could go.

Q. But you don't know of any steps being taken to dissolve it?

A. No, I don't know anything about that.

Q. Do you know how the new organization got its name?

A. Well, the name was proposed there that night, who proposed it, I don't recall.

Q. Were there any fees under the new organization, the Independent Federation of Republic Employees?

A. How is that?

Q. Any fees, or initiation fees?

A. There was no initiation fee, we were to pay dues not to exceed fifty cents a month.

Q. Have you paid any dues?

A. Yes.

Q. You signed a card?

A. Yes, sir.

Q. And did you become active in the new organization?

A. Not very active.

Q. Well, you were up to the Dollar Bank Building office every day, weren't you?

A. Yes, sir; I had no place else to go.

Q. Is that why you went there yourself?

A. Principally.

Q. Did you do any work there?

A. No.

Q. Did you see what happened there while you were there?

A. Well, about all there was to do.

Q. You did?

A. Yes.

Q. Did you see them come up there to sign the Back-to-Work petitions?

A. I saw the petition lying on the table there.

Q. Didn't you see the men coming in to sign it?

A. What?

Q. Didn't you see the men coming in there to sign it?

A. I don't mind whether I ever saw anyone sign it. I signed it.

Q. You were there every day, is that correct?

A. Practically every day.

Q. And you saw the petition lying there?

A. It wasn't on the table all the time.

Q. Where was it?

A. I don't know that; I didn't have charge of it.

Q. When it was on the table, did you see anyone sign it?

A. When I signed it.

Q. And is that the only time you saw it when it was on the table and you signed it?

A. I believe, yes.

Q Apart from that, that petition wasn't in the room there?

A. I didn't see it.

Q. And you were in the room?

A. I was; along about 5 or 10 minutes each day.

Q. Is that as often as you were there, five or ten minutes each day?

A. I will say I was never there longer at any time than ten or fifteen minutes at the outside.

Q. Do you know where the location of the room was,

that was used by the Independent Federation of Republic Employees, in the bank building?

A. Second floor.

Q. Do you know whether or not it was adjacent to rooms that were occupied by the Youngstown Sheet & Tube Federation of Employees?

A. It was.

Q. Were those rooms used interchangeably?

A. I don't know that.

Q. Did you ever see John Smith walk into the other rooms?

A. No.

Q. Did you ever see any of the officers walk into the other room?

A. No, not that I know of.

Q. Did you see any of the Youngstown Sheet & Tube men come into the Republic offices?

A. I don't know any of them, that I know of.

Q. All that you know is that they were adjacent to each other, is that right?

A. Yes, sir.

Q. And that meeting that we referred to before as taking place sometime in May, at which Mr. John Smith was elected president, that was held on company property, is that correct?

A. It was.

Q. Do you know whether or not that was on company time, for some of the men who were working there?

A. No. I don't know that.

Q. Well, that meeting was held in the evening?

A. Yes, sir.

Q. The plant works in the evening, doesn't it?

A. Yes, sir.

Q. Don't you know that some of the men who attended that meeting were going there on company time?

A. I don't know that any of the men off of the second turn were there.

Q. If they were, you would not recognize them?

A. No.

Q. Now, you went back to work the day the gates were opened, is that correct?

A. Yes, sir.

Q. Do you remember what date that was?

A. No, sir, I don't.

Q. You have no idea?

A. What?

Q. You have no idea?

A. Not the date. No.

Q. Do you know what month it was?

A. Well, it would be June, wouldn't it?

Q. Don't ask me, I am asking you.

A. It was—I have no way of fixing the date. I don't—

Q. Or the month?

A. Nor the month.

Q. Nor the month? No way of fixing the month either, is that correct?

A. Not exactly.

Q. How did you happen to go back to work?

A. I just walked into the office up in the Dollar Bank Building and Mr. Axelson told me that the gates were opened and anyone could go back to work.

Q. Did anyone else tell you to go back?

A. What?

Q. Did anyone else tell you to go back to work?

A. No, it wasn't necessary.

Q. Did your foreman speak to you about it?

A. I didn't see the foreman until after I got in the plant.

Q. Do you know he paid for gasoline, that is the Independent Federation of Republic Employees paid for

the cost of gasoline of those who were taking around the petitions to have them signed?

A. I don't know that.

Q. Did you know that people were taking around petitions to have them signed?

A. Not of my own knowledge, I don't know.

Q. Well, did anybody tell you that they were?

A. Well, that was my general understanding, that they were out having men sign up to go back to work.

Q. Who was out having the men sign up? The Independent Federation of Republic Employees?

A. Men who belonged to that. Yes.

Q. And do you know whether or not they went around in their automobiles to the various homes of the employees?

A. I don't know that, only from hearsay.

Q. Well, that is what I mean, from hearsay? Do you know that from hearsay?

MR. SMITH: Now—

A. I have heard that. Yes, sir.

Q. Have you also heard that they paid for the gasoline that they used in going around?

MR. SMITH: Now—

A. No, sir.

MR. LAUTER: I don't know who is testifying here.

Q. Did you say you do know or don't know?

A. I do not know that there was any gasoline bought, if that is what you mean.

Q. Now, at that time did the Independent Federation of Republic Employees have any money so far as you know?

A. I do not know that.

Q. Did you pay any dues at any time?

A. One night down at one of the meetings something was said about dues and I handed Mart Murphy a dollar.

Q. Do you remember the date of that?

A. No, I don't.

Q. Do you know whether that was in June or May or July?

A. It was about the time, I presume, the meeting at which Mr. John Smith was elected.

Q. Now, did you get—

A. I am not certain about it.

Q. You don't remember whether it was at that meeting?

A. Not positively, no, sir.

Q. Now, was there a meeting between that meeting and the time you went back to work?

A. Between that meeting when John Smith was elected?

Q. That is right.

A. I believe I attended one meeting at the same place before the strike.

Q. One more meeting, or just one meeting altogether?

A. One more meeting. I think that I was there at one meeting after John Smith was elected, and before the strike actually occurred; I believe there was one meeting.

Q. Do you remember what happened at that meeting?

A. Oh, just what happened at most of such meetings, mostly talk.

Q. What did they talk about?

A. Well, the strike seemed to be the all absorbing question.

Q. What did they say?

A. I don't remember what they said.

Q. Do you recall who spoke at the meeting?

A. There was one man—, I think Mr. Smith asked me to say a few words just until he got things together to start and I said a few words. Then—.

Q. What did you say?

A. I don't remember what I said, I was burdening

my mind with those things. I spilled out whatever was on the tip of my tongue, it was relative to the strike, and to the advisability of not striking, that was the line of it.

Q. And doing everything you could to prevent a strike?

A. Yes, I was. Then there was one other man spoke, he was a member, so he said—, now I don't know that he said, but that was the expression, that he was a member of the CIO, he spoke probably five or ten minutes.

Q. Now the strike took place on May 26th, is that correct?

A. So they said here.

Q. You don't remember it exactly?

A. Not the exact date, no.

Q. Now, I am going to ask you what the purpose of the Independent Federation of Republic Employees was before the strike? Was it to prevent a strike?

A. That seemed to be—might I answer this way? We started to—they, rather—started to organize the thing—that is, the men. So we would have some sort of an organization to represent us if we hadn't any.

Q. Are you saying that the Independent Federation of Republic Employees was an organization for collective bargaining? Is that what you are trying to say? Are you saying that it was an organization to prevent the strike?

A. Well, to prevent the strike seemed to be—that was the all absorbing topic.

Q. That was the purpose of it, is that correct?

A. Yes, sir.

Q. After the strike took place, isn't it correct to say that the all absorbing purpose of the organization was to get the men back to work?

A. Yes, sir.

MR. LAUTER: That is all.

JUDGE SMITH: That is all.

THE WITNESS: Now, do I have to remain here, if the Court please?

TRIAL EXAMINER LINDSAY: No, I guess not, unless your attorney wants you to.

MR. DAY: No, we are through with him.

TRIAL EXAMINER LINDSAY: We will have a five-minute recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing will come to order.

JOHN L. SMITH

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) You may state your full name, please.

A. John L. Smith.

Q. Where do you live, Mr. Smith?

A. 69 Wildwood Drive, Boardman Township.

Q. Where are you employed?

A. Republic Steel Corporation.

Q. And in what capacity?

A. Mechanic in the electrical welding.

Q. How many years have you been employed by the Republic Steel Corporation?

A. Approximately ten.

Q. And has your work been in the Youngstown plant during all that time?

A. Entirely so.

Q. Where were you employed prior to the time that you accepted employment with the Republic Steel?

A. Pittsburgh & West Virginia Railroad Company.

Q. How is that?

A. Pittsburgh & West Virginia Railroad Company.

Q. In what capacity were you employed there?

A. Superintendent of motor power.

Q. During all of the period you were there?

A. Yes, sir.

Q. Do you remember, Mr. Smith, when the Employees Representative Plan was first commenced in the Republic, originated in the Republic Steel Corporation? What year it was in?

A. I couldn't say what year it was. I remember when it was, though.

Q. Yes.

A. That is, at the time of its formation.

Q. Yes. I believe you were not an officer of that, the first year, were you?

A. No, sir, I was not.

Q. Did you serve as a representative during any of the period?

A. I served as an alternate. I was an alternate for four months, the latter part of the second year of it.

Q. Are you familiar with the working of this Plan and method of operation under it?

A. Partially so, yes.

Q. Now, I believe there are different committees that are provided for under this Plan?

A. There was.

Q. Do you remember how many committees there were?

A. Four, if my memory serves me right.

Q. Now which of these committees, during the time you were alternate, did you serve on?

A. None.

Q. Well, that is then, you were an alternate of the general body?

A. Yes, sir.

Q. But you did not have occasion to serve on any of the committees during the time you were alternate?

A. No, sir.

Q. Do you remember of any change being made in connection with your Employees Representation Plan along in April, 1937; I am referring you to the Supreme Court decision in connection with the National Labor Relations Act, did you hear of that?

A. I heard of it, yes, sir.

Q. Now you state, if you know, at this time what changes were made in connection with the operation of the Employees Representation Plan after that decision?

A. I cannot answer that question.

Q. That is you—. Well, did you know of any change being made in it or hear of any?

A. I did.

Q. Well, would you state what your understanding of this change was?

A. At the time the Supreme Court ratified the Wagner Act, the men then in charge of the Representatives Plan changed their constitution so as to divorce it entirely from any Company operation, or in any way connected with the Company. Now that was what I understood, while I was not thoroughly conversant with any of the facts of that because I was not approached by any members of the Representative plan as to any membership, so I could not answer any further on it.

Q. Well, do you recall about that time of this: as to whether or not there was any strike activity or any discussion as to a strike in connection with the Republic plant?

A. Not that I had heard of.

Q. That is, I mean now, I am directing your attention to this time after April?

A. There were rumors then, there were rumors in the air of a strike but nothing had been said definitely that I had heard of.

Q. Do you recall when the strike did take place?

A. Question again please.

Q. Do you recall when the strike did take place, what was the date of the strike?

A. Yes, I do.

Q. Now, what was that date?

A. May 29, if I remember.

Q. I believe it was May 26th?

A. 26th or the 29th.

JUDGE SMITH: We are all agreed on that, that it was the 26th.

Q. Well, state whether or not you had heard anything in connection with the possibility or probability of a strike prior to the time the strike actually occurred.

A. Several weeks prior to that, yes.

Q. Do you recall of a meeting that was held in the—what is known as the District Office, I believe, in connection with the organization of the Independent Federation of Employees?

A. I do.

Q. You were present at that meeting, were you?

A. I was.

Q. Well, now, will you just tell the Court what occurred at that meeting? As near as you can. First, I will ask you who presided at the meeting, when it opened.

A. Mr. Murphy presided at the opening of the meeting.

Q. Now, what was done in connection with this organization at that meeting?

A. There was an election of officers held that night.

Q. Do you remember who were elected?

A. Yes, I do.

Q. Just state.

A. Myself—that is the question you asked?

Q. Yes.

A. Myself, Chairman; Raymond Snyder, Vice-Chair-

man; Edward Chinowith, Secretary; Alfred Axelson, Treasurer.

Q. That Chinowith is C-h-i-n-o-w-i-t-h, is that correct?

A. I couldn't answer that, sir.

Q. Now, state whether or not there was any discussion that night in connection with the strike question?

A. Certainly, the discussion was there that the majority of the men in there did not wish to strike, and we wanted to remain at our work.

Q. Yes, and state whether or not there was any action taken?

MR. LAUTER: Excuse me, Judge Smith. I would like to have that question and answer read back, please.

(The last question and answer read by the Reporter.)

MR. LAUTER: I move that the answer be stricken, and the question, on the ground too vague.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. SMITH: Well, it seems to me on this, that that answer would be competent as stating his understanding of it, and as to what occurred there.

MR. LAUTER: No objection to testimony concerning what particular individuals said, named or unnamed, Mart Murphy, what he or anybody else said. But his understanding of the general discussion, what the general discussion was with respect to the majority of men not wanting to go out on the strike—that is purely a conclusion.

TRIAL EXAMINER LINDSAY: Yes, that is drawing a conclusion. There is no doubt about that. The answer is stricken from the record.

MR. SMITH: May I have an exception, please?

TRIAL EXAMINER LINDSAY: You may have an exception.

Q. An objection has been made, Mr. Smith, on the grounds that your statement that a majority of the employees—

TRIAL EXAMINER LINDSAY: Now, just a minute. You are not going right into that question, after I sustained objection?

MR. SMITH: No, I am trying to explain to him—

TRIAL EXAMINER LINDSAY: No, that is not necessary at all. You ask him another question. That is also stricken from the record.

Q. (By Mr. Smith) State what you heard said there by any of the men in connection with this matter?

A. The whole theme of the subject was that we did not want to strike.

Q. Well—

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: That is not responsive, it is stricken from the record.

Q. Mr. Smith, you can't give your conclusions as to what you think it was. State what you heard said there, and then whatever conclusion will be drawn by the court from what you heard said and testified as to being said. Do you understand what I mean?

A. I can't see how I can answer it any other way, when that was the whole theme of the subject there that night.

MR. LAUTER: I move the remarks of the witness be stricken.

TRIAL EXAMINER LINDSAY: Yes, they are stricken from the record. So is that long question.

TRIAL EXAMINER LINDSAY: That is all there is to that. You can only tell facts in the case; in other words, what Jones said at that meeting or what you said at that meeting. Now is that understandable?

THE WITNESS: Judge—

TRIAL EXAMINER LINDSAY: Just a minute.

You understand what you can testify to?

THE WITNESS: Why, if I can't testify as to what the conversation was, what should I testify to?

TRIAL EXAMINER LINDSAY: That is up to you, I am not testifying.

Q. (By Judge Smith) Now, Mr. Smith, I want to ask you if you will state what you heard anybody say down there, who talked at that meeting?

A. Well, that meeting was just a general discussion amongst the members, ourselves, that night there.

MR. LAUTER: Move the answer be stricken as not responsive.

JUDGE SMITH: He said it was a general discussion among the members who were there, I think that is entirely proper isn't it?

TRIAL EXAMINER LINDSAY: I will leave that stand, the objection is overruled, let the record show an exception. Now, Mr. Smith and Mr. Lauter, come up here a minute.

(Discussion off the record).

Q. In your meeting that you had where you were elected Chairman, can you state who discussed any question there that evening? Who made a talk?

A. Well, Mr. Murphy was the floor man, I, myself, for another one.

Q. Anyone else?

A. Well, there was several had the floor but I can't recall what the names are.

Q. Well, now, state to the Court the substance of what you said at that meeting.

A. Well, my theme was that I—

Q. Now, listen. I want to know what you said, not what your theme was or your conclusion. What did you say in substance?

A. Well, I thanked the Board for making me Chairman and putting me in the job. I told them that if there

was anything I could do to prevent a strike by talking to the boys, I would do what I could. That is what I said.

Q. Now, state as near as you can what Mr. Murphy said in connection with this meeting. Not his theme, you understand, or any conclusion, but what you remember about what he said.

A. His talk was along the same lines as my own was.

Q. Now, did you have any other meetings than this one before the strike?

A. Several.

Q. Do you remember what night this meeting was on or what day this meeting was held that you heard you were elected?

A. Well, it was held the following week. As to the date or not, I couldn't answer that question.

Q. Were you working in the mill the day of the strike?

A. I was, sir.

Q. What time did you get through?

A. 3 o'clock.

Q. And you were not in there at the time the strike actually occurred?

A. I was not.

Q. When did you go back to the mill?

A. The 29th day of June.

Q. 29th of June? So, after the strike, what, if anything, did you have to do in connection with this Independent Federation or any activities of it?

A. Well, I proceeded, along with the other officers, to organize the Federation into what we expected to have a collective bargaining agency with our company.

Q. Well, now, was that immediately after the strike?

A. It was, sir.

Q. And before you returned?

A. No, sir, it was after we returned to work.

Q. I am talking about after the strike and during

the time you were out, what activities were there in connection with your Federation?

A. I was looking after the Back-to-Work Movement at that time.

Q. Just state what you did in connection with the Back-to-Work Movement?

A. Well, in the first place, I opened an office in the Dollar Bank Building.

Q. What was the number of that room?

A. 210.

Q. And then what did you do?

A. I proceeded to make out petitions.

Q. What were your petitions? What there those petitions? What was the character of them?

A. Just simply a piece of foolscap paper, typewritten, with a heading on it that—

Q. Do you have that with you?

A. I have them laying in the chair, there.

Q. Yes. Are the papers that I am handing you the petitions that you referred to in your testimony?

A. "We, the undersigned employees of the Republic Steel Corporation"—

MR. LAUTER: I object.

TRIAL EXAMINER LINDSAY: Just a minute.

Q. Just a minute.

MR. LAUTER: I move the answer be stricken out.

Q. (By Mr. Smith) The question I asked—maybe you didn't understand—I say, are these the petitions—

A. They are, sir.

Q. That you referred to?

A. They are.

TRIAL EXAMINER LINDSAY: Now, that first part of his answer is stricken from the record?

MR. SMITH: Yes.

THE WITNESS: Yes, that is right.

Q. Now who prepared these petitions, Mr. Smith?

A. The officers of the Association.

Q. Did you have any part in it?

A. I did, sir.

Q. Now what was done with these petitions after you had them prepared?

A. They were kept, some of them in the office there and some of the boys took them in their pockets and when they met any of the workers on the street, why, they presented them to them. If they wished to sign them, they could; if they didn't want to, they didn't have to.

Q. Now when someone would come into the office in connection with this petition—?

TRIAL EXAMINER LINDSAY: Read the last answer back, please.

(Last answer repeated.)

Q. (By Judge Smith) State whether or not that is a statement you made to the people who came into the office to sign them?

A. Absolutely.

Q. Do you know of your own knowledge just how many signatures there were to these petitions?

A. Between forty-one and forty-two hundred.

Q. And are the papers that I show you here the petitions that have the signatures of between forty-one and forty-two hundred of the Republic employees?

A. They are, yes, sir.

Q. During what period of time was covered by the signatures, the circulation of these petitions?

A. I don't get that question.

Q. Well then, maybe I didn't get it very plain to you. Withdraw it and I'll state it again. State whether or not these signatures on the petitions were made prior to the time of going back to work?

A. They were.

Q. When was it you opened your office in the Dollar Bank Building? If you remember the date?

A. About the 28th of May.

Q. The 28th of May?

A. Yes, sir. I think it was the morning of the 28th of May.

Q. Did you have anybody in your office helping you in this work?

A. Yes. I had numerous volunteers helping there.

Q. Well, tell who they were that were helping you. The people that were helping you, who were they?

A. Republic employees.

Q. Do you remember the date on which the mills were opened and the employees went back to work?

A. I believe it was June 29th, if I am not mistaken.

Q. You say you think it was June 29th?

A. Yes.

JUDGE SMITH: Well, I think it has been established here that it was the 25th. I think we are all agreed on that.

THE WITNESS: Yes, June 25th.

TRIAL EXAMINER LINDSAY: Well, just let him testify.

JUDGE SMITH: Yes.

Q. Did you go back at that time?

A. Yes.

Q. And when you went back to your employment, were you started to work out there?

A. Yes, sir, I was.

Q. What job were you started on?

A. My old job.

Q. Now, what if any activities has there been in connection with the Independent Federation since the time you went back to work? Have you had any meetings?

A. We have.

Q. Have you had any meetings?

A. We have.

Q. Now, when was your first meeting after you went back to work?

A. At 60 Indianola.

Q. What is the number?

A. 60 Indianola Avenue.

Q. What was the purpose of that meeting?

A. The purpose of that meeting was for the Independent Federation of Republic Employees to drop the old Representative Plan or combine the two of them together as one.

Q. Well, what was done at your meeting there?

A. Well, at that time the officers of the Representative Plan resigned and we took over the reins.

Q. Well, state whether or not the Independent Federation was a separate organization itself—

MR. LAUTER: I object to the question as leading the witness.

Q. Well, you may state whether or not it was.

TRIAL EXAMINER LINDSAY: Yes; that is sustained.

MR. LAUTER: He has already testified that this organization took over the Employees Representation Plan and combined with them. I object to any questioning as forming a conclusion.

Q. What was done in connection with your organization subsequent to the—at your meeting at 60 Indianola? What action was taken, if any, by your body?

A. That is, by the Back-to-Work Body, do you mean?

Q. No, I am talking about Indianola, at the meeting you have spoken of out there?

A. Why, as I stated to you before, we called that meeting for the purpose of combining the old Representative Plan.

Q. I am asking you what you did at the meeting, if any action was taken?

A. Yes, it was, we combined the two.

Q. Well, what did you do?

A. We combined the two organizations together.

Q. State what you did, Mr. Smith, please. What action was taken?

A. Well, as I say, we put it up to a vote of the two organizations.

Q. Did you have any meetings subsequent to that time?

A. No, no.

Q. I mean, since the meeting at Indianola, have you had any other meetings of the Independent Federation?

A. Numerous ones.

Q. What action has been taken at those meetings in connection with your organization?

A. That was principally getting up our constitution and by-laws.

Q. Did you have a constitution and by-laws prepared?

A. No, we did not.

Q. I say, since that time?

A. Yes, we have.

Q. Have you had them prepared?

A. We have, since that time, yes.

Q. How was that done? How did you go about it, to get those? Who prepared them?

TRIAL EXAMINER LINDSAY: We will have to adjourn to 1:15.

(Thereupon, a recess was taken until 1:15 p. m.)

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

JUDGE SMITH: Mr. Smith, will you take the stand? Repeat the last question.

"Q. How was that done, how did you go about it to get those, who prepared them?"

A. At our meeting at 60 Indianola Avenue we appointed a by-laws committee.

Q. Do you remember who was on that by-laws committee?

A. George Wheaton—

MR. LAUTER: Sorry, but I can't hear.

Q. I'll withdraw that and ask you how many were appointed on the committee?

A. Five.

Q. Then did you serve as a member of that committee?

A. I did.

Q. And you met with the committee when they met, did you, as Chairman of your Independent Federation?

A. I did.

Q. Now state whether or not you employed anybody for the purpose of preparing your constitution and by-laws?

A. We did.

Q. Who did you employ?

A. Attorney W. O. R. Johnson.

Q. I believe he has an office in Struthers, has he not?

A. Room 710 Mahoning Bank Building.

Q. Mahoning Bank Building?

A. Yes, sir.

Q. Did your Committee—just state what was done in connection with meeting Mr. Johnson as to this preparation.

A. The question again?

Q. What was done in connection with your employment of Mr. Johnson; what followed that?

A. We just simply proceeded to draw up a set of constitution and by-laws which we thought would be agreeable to the membership, and which was presented to them for ratification at a later date.

Q. Now, did you have more than one meeting with Mr. Johnson?

A. Numerous meetings.

Q. Can you tell us about how many?

A. Eight or ten.

Q. And where were those meetings being held?

A. In Mr. Johnson's office in the Mahoning Bank Building.

Q. Was your Committee with you in those conferences? The members of this Committee?

A. Yes, sir.

Q. Then after these eight or ten meetings that you speak of, what was done in connection with the by-laws and constitution?

A. We called a meeting of the members of the Federation.

Q. Where was that meeting called for?

A. In the Central Auditorium on Boardman Street.

Q. On Boardman Street?

A. Yes, sir.

Q. In Youngstown?

A. Yes, sir.

Q. Do you remember when that meeting was held?

A. That was on a Friday, I think; July 25th. I wasn't present; I was away at the time. It was July 25th or 26th.

Q. So you are not personally—you have no personal knowledge of what occurred at that meeting?

A. I haven't sir.

Q. Did you see the minutes of that meeting later?

A. I did.

Q. Do you know what action was taken from your record? What action was taken on the constitution and by-laws?

A. They were accepted as read by the membership.

Q. Now, have you had any meetings since that time?

A. No mass meeting, no.

Q. No?

A. No.

Q. Have you had meetings of the officers of the Committee since that time?

A. Officers and membership committee.

Q. Now, what was done in regard—you say "membership committee"—was there a committee appointed for that purpose?

A. The officers appointed a committee for that purpose.

Q. Do you have a copy of your by-laws and constitution?

A. I have.

Q. That was prepared by Mr. Johnson?

A. I have.

MR. SMITH: I will ask to have that marked for identification as Respondent's Exhibit 23.

(The document above referred to was marked as Respondent's Exhibit 23 for identification.)

Q. I show you a book that has been marked Respondent's Exhibit 23, and ask you to state what that is.

A. That is a constitution and by-laws of the Republic employees.

Q. That is—

A. The Independent Federation of Republic employees.

Q. And this is the book that you speak of as having been prepared by Mr. Johnson?

A. It is.

MR. SMITH: I desire to introduce Exhibit 23 in evidence.

MR. LAUTER: May I see the offered exhibit?

MR. SMITH: Yes, sir.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 23 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 23 was received in evidence.)

MR. SMITH: Also mark this Respondent's Exhibit 24.

(The document above referred to was marked as Respondent's Exhibit 24 for identification.)

Q. I show you a card that has been marked as Respondent's Exhibit 24, and ask you to state what that card is for?

A. That is an application card for membership in the Independent Federation of Republic Employees.

Q. When was this card prepared, Mr. Smith?

A. At the formation of our organization.

Q. Well—

A. After we returned to work.

Q. Well, just state, now, where was it that you had your meeting at the time this card was discussed?

A. Indianola Avenue.

Q. Yes, and is that the time that the by-laws and constitution committee were appointed?

A. It is, sir.

Q. You may state who prepared this application card?

A. The committee, ourselves.

Q. Now what is necessary in connection with anyone desiring to join the Independent Federation, what is necessary for them to do?

A. Just what do you require men is, what it says on the card; they sign it of their own free will, there is no compulsion about it, with a fifty-cent monthly due.

JUDGE SMITH: I desire to introduce the Exhibit 24.

(The document previously marked for identification as Respondent's Exhibit No. 24 was received in evidence.)

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 24 received in evidence.

Q. (By Judge Smith) Mr. Smith, I wish you would state whether or not anybody connected with the Republic Steel Corporation or any of its officers or representatives were present at your Indianola meeting?

A. No sir, they were not.

Q. And was there anyone from Republic Steel Corporation, its officers or agents, present at any of the conferences your committee had with Mr. Johnson in connection with the preparation of this constitution and by-laws?

A. There was not.

Q. What is the purpose of this organization and the membership you are now acquiring at the present time?

A. How is that question, please?

Q. I say, what is the purpose of this organization that you have effected, of which—?

JUDGE SMITH: The by-laws and constitution, I presume, they are the best evidence of it. If there is an objection to that, I'll withdraw that question.

MR. LAUTER: There is an objection.

JUDGE SMITH: I'll withdraw the question.

Cross Examination

Q. (By Mr. Lauter) Mr. Smith, what is your position in the mill?

A. Pardon me?

Q. What is your position in the mill?

A. My occupation?

Q. That is right.

A. Mechanic.

Q. How long have you worked in the mill?

A. Between nine and ten years.

Q. Now you attended the meeting that was held at which you were elected a chairman, is that correct?

A. Yes, sir.

Q. And that organization was called the Independent Federation of Republic Employees?

A. It was.

Q. It is?

A. It is.

Q. Where was that meeting held?

A. In the Administration Building.

Q. That is Republic property, is that right?

A. Yes, it was.

Q. And about what time did that meeting start?

A. About eight o'clock.

Q. About how many persons attended that meeting?

A. I should judge between what was in the room and what was out in the corridor—between 300 and 350 men.

Q. Who gave you notice of the fact that there was going to be a meeting there?

A. That was public—common knowledge around the plant.

MR. LAUTER: I move that the answer of the witness be stricken as not responsive to the question.

TRIAL EXAMINER LINDSAY: Yes; the answer is stricken.

Q. Who gave you notice of the fact that there was going to be a meeting there that night?

A. I cannot answer that, not more than what was said around the plant amongst the boys, that there was going to be a meeting.

Q. Don't you recall who told you to go to the meeting?

A. Personally, nobody said anything to me.

Q. Didn't any of the boys tell you there was going to be a meeting?

A. Maybe lots of them did that but just who it was, I can't answer that question.

Q. Now, Mark Murphy attended the meeting, is that correct?

A. He did, sir.

Q. He was a Chairman under the Employees Representation Plan?

A. He was, sir.

Q. Were there any other employees' representatives present at the meeting?

A. I can't answer that.

Q. Don't you know?

A. I do not know; there may have been.

Q. You didn't see any?

A. Not as I recall.

Q. Did anybody ask you to run for office?

A. They didn't, sir.

Q. Before the meeting?

A. They didn't, sir.

Q. What?

A. They didn't, sir.

Q. Now, do you recall what Mr. Murphy said at the meeting?

A. How is that question?

MR. LAUTER: Repeat that question.

(The last question was read.)

A. Yes, I recall Mr. Murphy at the meeting.

Q. Do you recall what he said?

A. Not word for word, no.

Q. Tell me what he said, in substance.

A. Well, as I recall, he said that these meetings was called for the purpose of talking to the men and trying to prevent a strike. That was practically all I can tell you on that.

Q. Was that the reason for the formation of the In-

dependent Federation of Republic Employees, to prevent a strike?

A. It was.

Q. And after the strike was over, was the purpose of the Independent Federation of Republic Employees to get the men back to work?

A. That was when the strike was on; that was the intent of it, yes; not after it was over.

Q. After it was called, is that correct?

A. After the strike was called.

Q. That was the purpose of the organization, is that correct?

A. Yes.

Q. Now, how many general membership meetings have you had of the Independent Federation?

A. We only had one of the entire membership.

Q. Was that the first meeting at which you were elected?

A. No, sir.

Q. When was the membership meeting to which you are referring, held?

A. There was a membership meeting held of the Federation of Republic Employees as it now stands, was called —that was either the 28th or the 29th of July. I could not answer that truthfully because I was not in town at that time. That was handled by the vice-president.

Q. Now, did you, in substance, at that meeting, make the same statement of purpose that Mart Murphy had?

A. I didn't get that question.

Q. Well, at the meeting that was held on May 19th, what did you say?

A. That was the meeting in the assembly hall?

Q. That is right.

A. I told the boys there, if there was anything I could do to prevent them from going out on strike, that I was willing to do it.

Q. How soon after that meeting did you take space in the bank building, the Dollar Building?

A. That was after the strike was called.

Q. Do you know what day that was?

A. That was May 26th—25th or 26th, I don't remember that.

Q. With whom did you make arrangements about taking space in the building?

A. Mr. Boyd.

Q. Mr. Boyd? Is the assistant trust officer, is that correct?

A. Yes, sir.

Q. Did you go in there alone, to make arrangements with him, or did you go with somebody else?

A. Well, I made my arrangements with Mr. Boyd, myself.

Q. Do you know Mr. Guy Thomas?

A. Pardon?

Q. Do you know Guy Thomas?

A. Thomas?

Q. Who was the man who was active in the Youngstown Sheet & Tube Back-to-Work Movement? What was his name?

A. Oh, that Mr. Thomas—Yes, I know him.

Q. You know him?

A. Yes, I do.

Q. Did you make any arrangements with him about taking space in the building?

A. Never had no conversation with Mr. Thomas.

Q. Do you mean about taking space in the building?

A. About taking space in the bank building.

Q. Well, you had conversations with him while you were up in the bank building office, though, didn't you?

A. Well, he had an office, yes, up there.

Q. And his office was adjacent to yours, is that correct?

A. That was, sir.

Q. And he had quite a suite of offices there, didn't he?

A. He did.

Q. And you used his offices interchangeably with your own, is that correct?

A. I did not.

Q. Now when people came up to see you in the office that you hired, Room 210—?

A. Yes.

Q. Did you ever take them into the Youngstown Sheet & Tube offices?

A. Yes, I took you because you wanted a private conference.

Q. Well, you didn't hesitate to use their offices, is that correct?

A. I went and asked for permission that afternoon, is the only time it was ever used.

Q. Is that the only time you ever used their offices?

A. Yes, sir, it was.

Q. Have you ever paid for the use of that office?

A. Yes sir, I have.

Q. At the time you made arrangement to take that space, did you also arrange for how much you were going to pay?

A. Yes sir, I did.

Q. How much did you agree to pay for the use of that room?

A. I don't—, is that question relevant?

MR. DAY: Yes, answer the question.

A. I paid a dollar a day for it.

Q. Paid a dollar a day?

A. Yes, sir.

Q. You arranged with Mr. Boyd to pay a dollar a day at the time you took the room?

A. Yes, sir.

Q. Did you sign a lease?

A. No, sir.

Q. And have you paid for the use of the room?

A. Yes, sir.

Q. Now when was the second meeting of the Independent Federation of Republic Employees held?

A. Which body are you referring to, the "Back-to-Work" body or the present Federation?

Q. There is no difference, is there; it is the same name, isn't it?

A. Oh no, oh no, that is altogether different now.

Q. Wasn't the organization of which you were elected a temporary chairman called the Independent Federation of Republic Employees?

A. That was, yes. "Back-to-Work" movement, at that time.

Q. And isn't that the same name as the new organization?

A. Yes.

Q. In respect to which you have testified, constitution and by-laws have been drafted?

A. It is, and it has been adopted as the name for the organization by the membership.

Q. That is the same name, isn't it?

A. It is the same name, yes.

Q. And you are still the chairman?

A. Yes, sir.

Q. Now at the time it was a "Back-to-Work" movement and a movement to prevent the strike, is that correct?

A. Yes—, no, no, the time it was organized it was to prevent a strike.

Q. And after the strike was called?

A. It was a "Back-to-Work" movement.

Q. It was a movement to get the men back to work?

A. Yes.

Q. That is still the Independent Federation of Republic Employees?

A. It is, yes sir.

Q. Have you ever paid any of the individuals who took around the "Back-to-Work" petitions to have them signed?

A. I have not, sir.

Q. Did you ever pay for the use of gasoline by those individuals?

A. I did some, yes.

Q. Now at that time was there any funds in the Independent Federation?

A. There was.

Q. Did you have a treasurer?

A. I did.

Q. Has a report ever been made of finances of that new organization?

A. As to the organization, yes.

Q. At what meeting was the report made?

A. The Indianola meeting.

Q. Now that is the meeting about which you testified that they are going to combine the ERP, the Employees' Representation Plan with the Independent Federation, is that correct?

A. That was a meeting that was called for that purpose, yes.

Q. Let me understand you clearly that the purpose of that meeting, that is, the Indianola meeting, is, as you have testified, to combine the Employees' Representative Plan with the Independent Federation, is that correct?

A. It was.

Q. Who was present at that Indianola meeting, and let us have the date of that meeting?

A. I couldn't answer you who was present.

Q. Which one of the employers' representatives was present at that meeting?

A. Practically their entire membership was present at that meeting.

Q. I am referring to the officers, were the officers of the employers' Representation Plan present at that Indianola meeting?

A. That was my answer to you, that they were.

Q. And when did you say that meeting took place?

A. About a week after we went back to work, I couldn't tell you the date on it.

Q. Now you suppose you fix it as near as you can, start off and tell me what month it was?

A. How is that?

Q. What month was it that the meeting was held?

A. That was in about the first part of July, the early part of July.

Q. Now, going back for a moment. Do you remember the meeting on May 19th in the assembly hall at which you were elected?

A. I do.

Q. Do you remember a rally that was held at Carpenters Field?

A. I do.

Q. Now, that is also Republic property, isn't it?

A. It was.

Q. That was the second meeting of the organization, is that correct?

A. Yes.

Q. Then on May 28th about that date you opened offices in the Dollar Bank Building, is that correct?

A. Yes, sir.

Q. Now, between May 19th and May 28th, how many meetings were held, if any?

A. I am not prepared to answer that question offhanded.

Q. You were the Chairman of the organization at that time?

A. I was.

Q. You don't recall whether or not during those nine days, whether any meetings were held apart from the rally at Carpenters Field?

A. No; not after Carpenters Field. We had a couple of meetings that was after the strike.

Q. I am not asking you if you had any meetings—

A. Yes, there was a meeting held.

Q. You are sure they were meetings?

A. Pardon?

Q. You are sure there were meetings held?

A. Yes.

Q. Where were those meetings held?

A. Down in the assembly hall.

Q. That is Republic property?

A. It was.

Q. Were those membership meetings or meetings of the officers?

A. No, sir, just meetings of employees; department meetings.

Q. So those were the only meetings that you held during that period?

A. Those meetings were all for the purpose of trying not to go out on strike.

Q. I am not asking you whether those were the only meetings that were held. Were the department meetings held on Republic property?

A. Those were the only meetings that were held on Republic property.

Q. I am not asking you whether those were the only meetings held between May 19th and May 28th—

A. Those were all on Republic property.

Q. Are those the only meetings that you held?

A. Yes, sir.

Q. Did you call those meetings yourself?

A. Yes, sir.

Q. Did you send out notices yourself?

A. Yes, sir.

Q. Now, what form of notice did you use for those meetings?

A. Those notices were given out among the departments to the men.

Q. Did you handle the matter of giving out notices?

A. Sir?

Q. Did you handle the matter of giving out notices yourself?

A. I announced from the Chair that we would hold a meeting at such and such a night and that we would hold a meeting.

Q. How did the employees in a particular department get notice of the fact that there was going to be a meeting of their department?

A. Why, through employees that was there.

Q. Do you mean that the employees of one department, attending a departmental meeting, would be told that the employees of another department were going to meet, next night?

A. Why, certainly.

Q. Is that correct?

A. Why, certainly.

Q. Is that the only notice that was given?

A. Yes, sir.

Q. What would happen to the employees who actually attended the meetings and were told that the employees of another department were going to have another meeting next night? Did they go back into the plant and tell the other employees?

A. Why, sure.

Q. Do you know whether they did that on company property and company time?

A. Well, in the course of common conversation.

Q. I am asking you whether or not that was done on

company time. Now, do you know, or don't you know?

A. Why, I couldn't answer it any other way than what it was. We went backwards and forwards to work.

Q. Are you saying that it was done on company time?

A. I won't answer that.

MR. LAUTER: Well, I respectfully ask—

TRIAL EXAMINER LINDSAY: Well, just a minute. If you know the truth and you can answer it, you may answer it. That is what you are here for. Now, answer the question.

MR. LAUTER: Just one second. Read back about three or four questions.

(Record read by the Reporter down to the following point:

"A. Why, I couldn't answer it any other way than what it was.")

MR. LAUTER: Just stop right there.

Q. Is that statement correct, that you couldn't answer it any other way but what it was?

A. Why certainly, that statement is correct.

Q. That they did do it on company time.

A. Yes, if that is the way you want it, yes, that is the way it was done. Yes, if that is what you want.

Q. Well, I don't want it any other way but what it was. That is what you are testifying to, aren't you?

MR. SMITH: Well, your Honor, let me make this suggestion: He has answered that two or three times the same way.

TRIAL EXAMINER LINDSAY: Well, I know, but what we want to know is the truth, and that is all there is to it. There is no harm in this cross examination.

MR. SMITH: Your Honor, he said he couldn't answer it any other way, and then he asked him if that was correct and he said, "It certainly is." Now, he is pursuing the same question.

MR. LAUTER: I have no further questions to ask with respect to whether that was done on company time. I think the record is clear.

Q. Now, at these departmental meetings at which you acted as chairman, did you at any time raise a question of whether or not office space would be taken in the Dollar Building, and obtain any approval from the employees who attended these meetings?

A. I did not.

Q. Have you ever at any time obtained approval for the expenses incurred in taking that space?

A. With the officers of the association, yes.

Q. And when did you do that? Prior to taking the space, or after taking the space?

A. Prior to taking the space.

Q. And where was that meeting held?

A. That meeting was held at the Indianola Church.

Q. Is that the meeting at which the Employees Representation Plan representatives attended?

A. That was the time it was formed, yes.

Q. Now, are you saying that at that time you took up, at that meeting, the question of opening the offices in the Dollar Bank Building?

A. Yes, sir, with the officers of the Federation.

Q. Did you do that in an open meeting or in a closed meeting with the officers?

A. That was at the open meeting of the officers, yes.

Q. How many officers attended that meeting at which you took up that question?

A. There was the four of us.

Q. What are their names again?

A. Myself, Mr. Snyder, Chinelworth and Axelson.

Q. Now, did I understand you to testify that you took up the question of incurring the expense for the use of Room 212 prior to your actual obtaining that space, or after? Which is correct?

A. Well, that was taken up with the officers of the Association, what we should do about that.

Q. I am asking you, when you took that up with the officers of the Association? Prior to taking the space, making the arrangements with Mr. Boyd, or after that?

A. That was before I made arrangements with Mr. Boyd.

Q. Now, you are sure that you took that up with the officers before you made arrangements with Mr. Boyd, is that correct?

A. I am.

Q. And you say that the first time that you took it up was at the Indianola meeting?

A. That is where it was taken up, yes, sir.

Q. No, that the Indianola meeting was held sometime in July?

A. Pardon?

Q. Wasn't the Indianola meeting held sometime in July?

A. Early part of July.

Q. Did you take the space there as early as May 28th?

A. I may have made application for the space at that time, yes.

Q. When did you actually move into the offices?

A. That I cannot answer, I don't know.

Q. Well, don't you know that you moved in there some time in May or June?

A. No.

Q. Are you stating for the record that you weren't in the Dollar Bank Building some time in June, in Room 212 or 210?

A. 212 was in May, yes, in the latter part of May; I am talking about the regular Federation offices now, not about 2 and 210.

Q. We will go back over the whole thing. You took

a room in the Dollar Bank Building, is that correct, in connection with the activities of the Independent Federation?

A. Yes, sir.

Q. Some time in May, is that correct?

A. That is correct, yes.

Q. I am asking you; who gave you the authority to take that space?

A. Who gave it?

Q. Yes.

A. I took that upon my own responsibility at that time.

Q. That is what I am getting at.

A. Yes, sir.

Q. You didn't consult with any officers or any members?

A. At that time we had no officers.

Q. But you opened that in the name of the Independent Federation, didn't you?

A. Yes, sir.

Q. And you carried on activities of the Independent Federation, didn't you

A. Yes.

Q. And at that time there were a temporary set of officers?

A. At that time we had temporary set of officers, four of us.

Q. And at that time you were holding departmental meetings?

R. In the administration building, yes sir.

Q. And you never consulted the officers or members, is that correct?

A. No, I did not at that time.

Q. That is all. I hand you Board's Exhibit for identification 113, and ask you whether or not you received that before, or copy of it?

(The document above referred to was marked as Board's Exhibit No. 113 for identification.)

JUDGE SMITH: May I see it?

MR. LAUTER: As soon as I make my offer, Judge Smith, I will be very glad to show it to you.

A. Yes, I seen that before.

Q. Is this a copy—, is Board's Exhibit No. 113 a copy which you sent to Madame Frances Perkins?

A. It is.

MR. LAUTER: I offer in evidence Board's Exhibit 113.

JUDGE SMITH: We will object to the introduction on the grounds it is incompetent, immaterial and not germane to the issues in the case.

TRIAL EXAMINER LINDSAY: Objection overruled. Board's Exhibit 113 received in evidence. Let the record show an exception.

(The document previously marked for identification as Board's Exhibit No. 113 was received in evidence.)

Q. I call your attention, Mr. Smith, to the fact that this Board's Exhibit 113 is dated June 23rd, 1937, is that the date on which you sent the telegram?

A. According to that, it is.

Q. Do you remember, or have you any recollection of anything that would make you believe that is not the date?

A. Pardon me?

Q. So far as you can recall, is that the date on which you sent the telegram?

A. It is.

Q. Now between May 19th, when you were elected temporary chairman and June 23rd, 1937, how many general membership meetings did you say there were?

A. Why, there was no general membership meetings

between that time, that was entire "Back to Work" movement there.

Q. Now, I want you to listen to the question, Mr. Smith.

A. I beg your pardon?

Q. I am asking you, Mr. Smith, how many membership meetings there were.

A. None.

Q. If there were none, just say there were none.

A. None.

Q. That is, of the Independent Federation, is that correct?

A. No, there were none.

Q. There were no meetings?

A. No.

Q. And when you sent this telegram, did you consult any of the officers or any of the members of the Independent Federation?

A. That was made up between the officers that was in the meeting with us.

Q. What meeting was that?

A. Well, that office was open from 8 o'clock in the morning until 8 o'clock at night.

Q. I am asking you at what meetings formal action was taken approving the sending of this telegram on May 23rd.

A. As I just quoted to you, it was at a meeting where we had our registration where all the officers were at all times.

Q. Are you saying a formal action was taken?

A. I told you there was no meetings during that time.

Q. I am not referring to the membership meetings but to meetings of the officers.

A. No, there was none.

Q. There were no meetings of the officers?

A. During that period.

Q. Did you assume the authority to send out this telegram?

A. I did.

Q. And this was your composition on it, is that right?

A. Ye , sir, a copy of it; yes.

Q. Now, I hand you Board's Exhibit No. 114 which has been marked for identification and ask you whether this is a copy of a postcard that you sent out to Republic employees, also in the name of the Independent Federation of Republic Employees (Handing a card to the witness)?

A. Yes, sir.

(Thereupon the document above referred to was marked Board's Exhibit No. 114 for identification.)

MR. LAUTER: I offer it in evidence as Board's Exhibit No. 114.

JUDGE SMITH: No objection.

MR. LAUTER: May we have a ruling on it, your Honor?

TRIAL EXAMINER LINDSAY: Board's Exhibit No. 114 is received in evidence.

(Thereupon the document heretofore marked as "Board's Exhibit No. 114" was received in evidence.)

Q. Where did you get the list of names to send out these postcards?

A. My secretary got those; I can't answer that question, where he got them from.

Q. Well, you sent them out to Republic employees, didn't you?

A. Yes, sir.

Q. Did you get them from the Corporation?

A. They may have been; I can't answer that question. I can't say but I know we sent out those names. I sat down and sent them out.

MICRO CARD

Q. You sent out those cards similar to Board's Exhibit 114 to employees of the Republic, is that correct?

A. Yes, sir.

Q. And those postcards in each instance urged these men to sign up for the Back-to-Work movement?

A. Yes.

JUDGE SMITH: I object to that. The men themselves can state as to what they were urged. The cards are in evidence.

Q. Did you send out similar cards to all Republic employees—

TRIAL EXAMINER LINDSAY: Just a moment.

JUDGE SMITH: I am objecting to his interpretation in asking the witness that question about the cards.

MR. LAUTER: All right. I will withdraw the question, if your Honor please.

JUDGE SMITH: If you will withdraw your question, then I will withdraw my objection.

Q. Did you send out cards similar to Board's Exhibit 114 to employees of the Republic; is that correct?

A. Yes.

Q Don't you know that the names that appear on the front of these cards that you sent out to Republic employees were obtained from the Corporation?

A. I presume that is where they did come from originally.

Q. What do you mean "originally?" That is where they came from, didn't they?

A. That is what you say.

Q. I am asking you what you say.

A. Yes.

Q. Didn't they?

A. Yes.

MR. LAUTER: That is all.

THE WITNESS: Thanks.

Redirect Examination

Q. (By Judge Smith) Mr. Smith, there was some questions raised in regard to the office in the Dollar Bank Building. Does the Independent Federation now have an office in the Dollar Bank Building?

A. We have.

Q. And the ratification or approval that you spoke of, in connection with your Indianola meeting, as to the renting of that office and authorizing it, is that the one you refer to as being authorized there?

A. That is the one I referred to, the present one I am in.

MR. SMITH: That is all.

MR. LAUTER: Just one second.

Recross Examination

Q. (By Mr. Lauter) What was the room number of the room—the first room that you took in the Bank Building?

A. Room 210.

Q. Now, with respect to room 210 you never got authority, is that correct?

A. Pardon?

Q. With respect to Room 210 you never got authority?

A. No, sir.

Q. And that was the room with respect to which you made arrangements with Mr. Boyd, assistant trust officer, is that correct?

A. Yes, sir.

Q. And that is the room that is right next to the Youngstown Sheet & Tube offices, is that correct?

A. It is—It was, sir.

Q. Do you know whether or not Mr. Argetsinger is vice-president of the bank?

A. I do not, sir.

Q. You don't know that?
A. No, sir.
(Witness excused.)

G. O. McGRANAHAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name?
A. G. O. McGranahan.
Q. You reside where?
A. 374 Cohasset Road, Youngstown.
Q. How long have you lived here?
A. 27 years.
Q. What is your occupation?
A. Commercial photographer.
Q. How many years have you been engaged in that work?
A. 24 years.
MR. SMITH: I would like to have these marked Respondent's Exhibit 25 and 26.
(The photographs above referred to were marked as Respondent's Exhibits No. 25 and 26 for identification.)
Q. I show you a photograph that has been marked as Respondent's Exhibit 25, and ask you if that is a reproduction of a picture that was taken by you?
A. Yes, sir.
Q. And where was that taken, Mr. McGranahan?
A. That was taken from the roof of the Sharp Lumber Company.
Q. And what location? What is the location?
A. That is up on the hill.
Q. Well, on what street is it? What part of town, Mr. McGranahan?

A. Well, it is right—

Q. What street?

A. It is right opposite Jones Street. I don't know the name of the street. It is a little short street in there.

Q. Well, is that near Stop 5 on Poland Avenue?

A. Yes, sir, it is right across, over the hill from there.

Q. And I'll show you another photograph which is marked Respondent's Exhibit No. 26 and ask you if that is a reproduction of a photograph that you took?

(The document above referred to was marked as Respondent's Exhibit No. 26 for identification.)

A. Yes.

Q. And where was that taken from?

A. That was taken on the railroad track just above the tunnel that goes into the mill at Stop 5.

Q. That is, into the Republic Steel production plant?

A. Yes, sir.

Q. Does this photograph correctly represent the surroundings, the view, from the top of the Sharp Lumber plant in connection with Stop 5 of the Republic?

MR. LAUTER: I suggest, Judge Smith, that you refer to document by exhibit number so we will know what you are talking about.

JUDGE SMITH: That is Exhibit 25.

A. Yes, sir.

MR. LAUTER: That is, Exhibit for identification?

JUDGE SMITH: That is right.

Q. (By Judge Smith) And I refer you to Exhibit No. 26 and ask you if that is a correct showing of the conditions and the locations in looking from a point on the railroad track above the entrance to the Republic Steel Corporation at Stop 5?

A. Yes, sir.

JUDGE SMITH: I would like to offer these two Exhibits.

MR. LAUTER: Object on the ground that they are incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: I find it necessary to take that under advisement.

JUDGE SMITH: Do you wish to inquire?

Cross Examination

Q. (By Mr. Lauter) You say you are a commercial photographer?

A. Yes sir.

Q. How long have you been a photographer?

A. Twenty-four years.

Q. Were these photographs taken in the regular course of your business?

A. Yes, sir.

Q. At whose instructions?

A. At Mr. Johnson's.

Q. Who is Mr. Johnson?

A. He is with the City of Youngstown.

Q. City of Youngstown?

A. Yes, sir.

Q. When did you take these photographs?

A. Those were made July 15th, 1937.

Q. And can you state for what purpose they were made?

A. Well, they just wanted to have the location so they could identify them.

Q. Identify what?

A. The different locations from the bridge and Stop 5.

Q. Republic Steel Corporation asked you to take those pictures?

A. No, sir.

Q. Did they ask you for copies of them?

A. Yes, sir.

Q. How soon after you took them, did they ask you for copies of them?

A. That I can't say.

Q. Try and remember; when did you take the pictures?

A. July 15th.

Q. And when did you sell copies of them to the Republic?

A. I would have to look up the records to see when it was.

Q. Would you say a week or a day, or when?

A. No, it was longer than that.

Q. Longer than that? A month?

A. I would say it was close to a month.

Q. Some time in August?

A. Yes, sir.

Q. Who asked you for copies of the photographs?

A. Mr. Jones.

Q. Mr. Jones?

A. Yes, sir.

Q. What is his position?

A. He is an attorney.

JUDGE SMITH: This gentleman here.

Q. Is he the gentleman sitting at the counsel table for the Republic?

A. Yes, sir.

Q. He asked you for copies of the photographs?

A. Yes, sir.

Q. Were these part of the number of photographs that you took at that time?

A. Yes, sir.

Q. On July 15th?

A. Yes, sir.

Q. When you took these photographs, were you given any instructions in respect to what angle to take the pictures from?

A. Yes, sir.

Q. Who gave you those instructions?

A. Police Department.

Q. Who in the Police Department?

A. There were two policemen with me instructing me what to do.

Q. There were?

A. Yes, sir.

Q. What are their names?

A. I couldn't say.

Q. Where did you meet them?

A. At the City Hall, or the Police Department, rather, at the Chief of Police's office.

Q. Let me get this straight: There was someone of the City of Youngstown asked you to take photographs?

A. Yes, sir.

Q. What was his name?

A. Mr. Johnson.

Q. Mr. Johnson?

A. Yes, sir.

Q. You met two policemen and you went out and took some pictures.

A. Yes, sir.

Q. And the two policemen told you at what angle to take the pictures?

A. Told me what they wanted.

Q. Told you what they wanted?

A. Yes, sir.

Q. Did they say what they wanted them for?

A. No, sir.

Q. You don't know what these pictures were taken for?

A. Not at the time, no.

Q. Subsequently, did you find out?

A. Later, yes.

Q. What were they taken for?

A. Court work.
Q. What was that?
A. For court work.
Q. By the City of Youngstown?
A. Yes, sir.
Q. And then Mr. Jones came to your place of business?
A. No.
Q. And asked you for copies?
A. They called me on the 'phone.
Q. And you had a conversation with Mr. Jones?
A. Yes, sir.
Q. What did Mr. Jones say?
A. Just told me he would like to have copies of them.
Q. Did he say which photographs?
A. Yes, sir.
Q. Just these two?
A. No, some others, too.
MR. LAUTER: That is all.
JUDGE SMITH: That is all.

ALBERT HAENNY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name?
A. Albert Haenny.
Q. You reside where?
A. City of Youngstown on Park Cliff Avenue.
Q. How long have you lived in Youngstown?
A. All my life.
Q. What is your occupation?
A. I am Commissioner of Engineering for the City of Youngstown.
Q. Prior to that time, how were you employed?

A. I was in the practice of civil engineering.

Q. And then for how many years—

A. Well, it has been my lifetime work. I have been practicing for myself for 18 years.

Q. Now, were you called upon by the City of Youngstown some time ago to make a map on the location of Stop 5?

A. Yes. The Law Director of the City of Youngstown asked our Department to prepare a map of Stop 5 of the Poland Avenue line.

Q. Did you go out and make a map of that kind?

A. Yes, I did.

Q. Now, in getting the data for the map, how did you get that? How did you arrive at that?

A. Well, through measurements and field work with our field corps. That is the City of Youngstown civil engineering corps, and from other records that we had.

Q. And the field work was done under your supervision and direction?

A. Yes, it was.

Q. And the making up of the map, was that done under your supervision?

A. That was also done. Yes, under my supervision and direction.

Q. Now, do you have with you—

A. I have the original.

Q. You have the original?

A. Yes, of the map here.

JUDGE SMITH: Now, your Honor, may I have this understanding of having the copy marked as an exhibit in the event that this is permitted to go in, so the original may be taken away by Mr. Haenny?

TRIAL EXAMINER LINDSAY: Yes. I see no objection to that. However, the ruling on the question as to Stop 5 pertaining to violence, the objection to that testimony has been sustained and I would like to

know what the purpose of offering these exhibits really are.

JUDGE SMITH: Well, we would like to have the conditions existing around there in the record so that it would be easier to apply the evidence that has been or will be introduced.

TRIAL EXAMINER LINDSAY: Well, they are not being offered with any thought in mind of showing any act of violence?

(Discussion off the record.)

JUDGE SMITH: I would like to have it identified. The reason I asked your Honor that question before was as to whether or not there would be any objection on the grounds of using the copy.

TRIAL EXAMINER LINDSAY: If it is received in evidence, and the copy is an exact copy of the original, there will be no objection of letting the copy be substituted for the original.

JUDGE SMITH: Then we can have the original marked, and then have the record show the substitution, is that correct?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May I have that marked as Respondent's Exhibit 27 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 27 for identification.)

Q. I show you a map which has been marked for identification as Respondent's Exhibit 27, and ask you if that map is correct as to the locations that it purports to show in and around Stop 5, on and near the entrance to the Republic Steel Corporation on Poland Avenue?

A. Yes, it is.

MR. SMITH: Do you care to examine it? You have looked at it, I suppose?

MR. LAUTER: Have you made an offer, yet?

MR. SMITH: I have not yet made an offer. I am going to ask you if you wanted to examine it before that time. Now, I offer this Respondent's Exhibit 27 in evidence.

MR. LAUTER: I object on the ground incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: Do you want to ask anything?

MR. LAUTER: At the present time do I understand the original is not remaining in evidence, and that you are making request that copy be substituted in its place?

MR. SMITH: Yes.

MR. LAUTER: Is that the copy?

MR. SMITH: That is the copy.

MR. LAUTER: I suggest you make request at this time in the record, so that it may be clear that the original is not to remain in evidence.

MR. DAY: You had better mark the copy.

TRIAL EXAMINER LINDSAY: Not any of it has been received.

MR. LAUTER: I understand you have reserved the ruling, but on the other hand you are probably going to remove this original from the courtroom today, is that correct?

MR. DAY: I suggest we mark the copy as an exhibit.

MR. SMITH: May we have the Stenographer mark the copy as an exhibit, if the objection will not go to the fact that it is a copy?

MR. LAUTER: No, my objection won't go to the fact that it is a copy.

MR. SMITH: All right, then.

MR. LAUTER: That is, if this witness testifies

under oath that that is an exact copy of the original.

MR. SMITH: He has testified.

MR. LAUTER: Then there is no objection that it is a copy.

Q. (By Mr. Smith) I think I have asked you that question.

A. No, you haven't.

Q. Will you examine this copy that is on this easel here, and see whether it is an exact reproduction of this original map that you made?

A. Yes, it is a copy, an exact reproduction of the original map, made by our office, to show the location and opposite surroundings, Stop 5 entrance.

MR. SMITH: I would like to have the Stenographer now mark that copy over there, instead of marking on the original.

(Copy of the document above referred to was marked as Respondent's Exhibit No. 27 for identification.)

MR. SMITH: I have no further questions to ask.

Cross Examination

Q. (By Mr. Lauter) What is your position with the City?

A. Commissioner of Engineering. The City Engineer, but under the charter form our title is Commissioner of Engineering.

Q. At whose request did you make the original of Respondent's No. 27?

A. Mr. Vern Thomas, Director of Law of the City of Youngstown.

Q. And for what purpose was the map made?

A. So far as I know, map was made for the purpose of presenting at a case in Columbus. I wasn't there and it wasn't identified there, or the map wasn't taken there but it was made for that purpose.

Q. Was the original made by you or under your direction?

A. Yes, sir.

Q. And was that copy made by you or under your direction?

A. Under my direction, yes.

Q. And who requested that a copy be made?

A. There wasn't any definite request made, on the copy being made. We make considerable number of copies.

Q. Is this original and that copy City property?

A. I don't know where that copy came from.

Q. I don't want your speculations; if you know, say you know, if you don't know, say you don't know.

A. I couldn't say which one—, I made about ten copies of that map, now what particular copy—.

Q. So if that is that one of the ten copies you made, that would be City Property, is that right?

A. Yes, sir.

Q. And that original you have in your hand, that is City property?

A. That is city property, yes, sir.

Q. Have you any authority to part with either one of those copies?

A. I am not parting with the original.

Q. Have you any authority, or were you given any authority to part with that copy?

A. No, I don't think it would be necessary.

Q. Did you bring this original into court?

A. I brought this, yes.

Q. From whom did you get permission to bring the original into Court?

A. I wouldn't—, that's my own Department affair, I don't know of whom I could possibly get permission other than myself.

Q. Were you subpoenaed to bring that into Court?

A. No.

Q. You were merely requested?

A. Merely requested.

Q. And you brought it in?

A. Yes.

Q. And you don't know whether that is a copy which you prepared; take a look at the copy and see whether or not that is one of the ten copies which you prepared, the one that is pinned onto a placard here in the Courtroom.

A. It is one of those copies because it's of that particular type.

Q. You say that is one of those copies?

A. Yes.

Q. And you have charge of that copy as well as the original, is that correct?

A. Yes.

Q. When did you part with that copy?

A. I couldn't tell you, sir.

Q. Were you ever requested for that copy?

A. No, I gave copies to the Law Department of the City of Youngstown, now that is probably one of those copies, that is what I was going to tell you before.

Q. So far as you know, is there any authority on the part of the Law Department to part with that City property?

MR. DAY: I'll object to that.

MR. LAUTER: I'll withdraw the question.

Q. Where are the copies generally kept by the City?

A. These are matter of record in Department of Public Works.

Q. Is that a Department over which you have any control?

A. I am in charge of that Department.

Q. And these maps are directly under your charge, is that correct?

A. That is true.

Q. And if one of those maps were to be missing or disappear you would be charged with the responsibility for that map, is that correct?

A. Well, perhaps so. Of course, copies—

Q. Well, you are in charge of the maps, aren't you?

A. That is true.

Q. That original and ten copies?

A. That is true.

Q. And you say that is one of the ten copies, and you don't know when you parted with it?

A. That is right.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Judge Smith) I understood you to say you turned over some of these copies to the Law Department of the City of Youngstown?

A. That is true.

Q. Now, do you say that is true?

A. Yes, sir.

JUDGE SMITH: Now, I wish to state into the record, your Honor, that we got this copy from the Law Department of the City of Youngstown, and I just want the record to understand that this man has not in any way turned over any copy to us at all. We got it from the Law Department of the City of Youngstown.

That is all, Mr. Haenny.

TRIAL EXAMINER LINDSAY: We will have a recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: At this time, Mr. Trial Examiner,

in order to preserve my record, I would like to state an objection made originally concerning the introduction of these maps and pictures on the ground that it is incompetent, irrelevant and immaterial. I want to state further that if the purpose of introducing these documents is to show acts of violence, I wish to note my objection that I have already made with respect to the testimony of one Charles Richmond.

TRIAL EXAMINER LINDSAY: Ruling reserved.

WILEY McCREARY

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please?
A. Wiley McCreary.
Q. Keep your voice up, please.
A. Wiley McCreary.
Q. Where do you live, Mr. McCreary?
A. Niles.
Q. Where are you now employed?
A. Republic Steel Corporation.
Q. At the Niles plant?
A. At the Niles plant.
Q. How long have you been in their employ?
A. About a year.
Q. What is the nature of your employment there?
A. Electrician.
Q. What?
A. Electrician.
Q. Are you a foreman?
A. (No response.)

Q. Were you employed in this same capacity before the strike?

A. Yes, sir.

Q. Are you a foreman?

A. No.

Q. Were you a foreman at the time or before the strike?

A. No.

Q. You were employed as an electrician at the time of the strike?

A. Yes, sir.

Q. At the time the strike was called on that day, when did your turn or trick end?

A. 11 o'clock at night.

Q. Did you stay in the plant during the strike?

A. I did.

Q. I will ask you whether or not any foreman, superintendent or officer of the Republic Steel Corporation ordered you to stay in the plant during the strike.

A. No, sir.

Q. About when was it on the day that the strike was called that you first knew there was going to be a strike?

A. About around 6 or 7 o'clock, I would say.

Q. In the evening?

A. Yes, sir.

Q. And your trick ended at 11 o'clock in the evening?

A. 11 o'clock.

Q. Did you leave the plant on that night?

A. No.

Q. How long did you stay in the plant until you did leave?

A. June 12th.

Q. Is it your understanding, Mr. McCreary, that the strike was called on May 26th?

A. Absolutely.

Q. So from May 26th until June 12th you remained in the plant?

A. Yes, sir.

Q. I will ask you ordinarily if you were accustomed to go to and from your home or place of abode—

A. Yes.

Q. —while you worked at the plant?

A. Yes.

Q. Why was it that you didn't do that between May 26th and June 12th?

A. Afraid to get my head knocked off.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes. Objection sustained. Let the record show an exception.

MR. JONES: Exception.

TRIAL EXAMINER LINDSAY: The answer is stricken out.

MR. JONES: May we make our offer to prove?

TRIAL EXAMINER LINDSAY: Not on a question like that. It is calling for a conclusion based on nothing.

Q. Mr. McCreary, during the period of time from May 26th until June 12th, during the time that you were in the mill, I will ask you to state whether or not you observed pickets in and about the Niles plant.

MR. LAUTER: I object to the question as leading the witness.

TRIAL EXAMINER LINDSAY: That is leading the witness.

MR. JONES: On that question, your Honor, I wanted to get simply a yes or no answer.

TRIAL EXAMINER LINDSAY: Ask him what he saw.

Q. Did you or didn't you, Mr. McCreary, observe pick-

ets in and about the plant between May 26th and June 12th? Answer that yes or no.

A. Yes.

MR. LAUTER: I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Just a minute, now. (To the witness) When a question is asked and there is an objection, you just wait and give me a chance to rule on it. Now on that basis alone, the whole thing is stricken; the question and the answer. Start all over again.

Q. Will you please, Mr. McCreary, describe what you saw about the plant, not in the plant, between May the 26th and June 12th?

A. They had a cable out in front of our driveway, which was blocked with automobiles.

MR. LAUTER: May we have the place of that cable more definitely?

Q. Where was that, Mr. McCreary?

A. It is on the main road between Niles and Warren.

Q. Is that along one side of the plant?

A. Along one side, it is the gateway to the plant, yes.

Q. That is, does the entrance or gateway that you mention, open on to that highway?

A. It is.

Q. Describe what you saw between those dates on that highway, adjacent to the plant?

A. Well, there were pickets there twenty-four hours a day, it would be pretty hard to describe everything you saw the twenty-four hours a day it was picketed; there were numerous men there.

Q. I just want what you saw, Mr. McCreary; will you describe the appearance of the pickets as you saw them?

A. Well, there were fellows you wouldn't want to meet in the dark.

TRIAL EXAMINER LINDSAY: No, no, that is stricken out.

MR. JONES: Yes.

Q. Just what you saw, Mr. McCreary, not your conclusions.

A. Well, I saw men walking up and down there.

Q. Where?

A. Along the public highway, the sidewalks, along the Erie railroad tracks, which is in the rear of the plant.

Q. Is that a boundary of the plant?

A. It is.

Q. What was the extent of the space wherein you say these pickets were walking up and down, as you have told us, on this public highway or sidewalk?

A. Probably half a mile.

Q. I'll ask you if it extended the entire length of the Company's property?

A. It did.

Q. What, if anything, did they have in their hands as you saw them?

MR. LAUTER: Object to that as leading the witness.

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: And there is no testimony that they had anything in their hands?

MR. JONES: I'll withdraw the question, Your Honor.

Q. Did any of the pickets at any time have anything in their hands?

A. They did.

Q. Describe what you saw?

MR. LAUTER: I want an objection on the grounds of incompetent, irrelevant and immaterial; what they had in their hands, is not involved in this case, outside of the scope of the issues.

TRIAL EXAMINER LINDSAY: For the time be-

ing, I'll sustain that objection. Let the record show an exception.

MR. JONES: May I make an offer to prove, Your Honor?

TRIAL EXAMINER LINDSAY: You may make an offer to prove at any time when you build your witness up to that point.

MR. JONES: May I now dictate into the record our offer to prove with respect to this question?

MR. LAUTER: If it please, Mr. Trial Examiner, if an offer of proof is now going to be made in respect to a subject matter that you have now ruled as incompetent, irrelevant and immaterial, I respectfully submit that we shouldn't be bound here. Now I don't see that it is in any [way] involved in this case if pickets go out there with something in their hands.

MR. DAY: What was the last question?

(The last question was read.)

(Discussion off the record.)

MR. LAUTER: I will withdraw my objection.

MR. JONES: Do I understand that this witness may answer this question?

TRIAL EXAMINER LINDSAY: For the time being.

MR. JONES: Will you read the question?

(The last question was read.)

A. One of them showed me a gun one day.

Q. What else did you see?

MR. LAUTER: Will you read that last answer?

(The last answer was read.)

Q. What else did you see?

A. Most of them had clubs.

Q. What were the size of the clubs?

A. Probably about a foot long and about an inch or an inch and a half in diameter.

MR. LAUTER: At this time, if it please, Mr. Trial Examiner, I wish to renew my motion. I am objecting on the ground that it is incompetent, irrelevant and immaterial and outside of the scope of the issues in this case.

MR. DAY: Inasmuch as that objection is made on that ground, we want to make a statement that this evidence is competent, relevant and material and not with relation to the violence matter that the Court has already passed upon but upon the issues in the case as to why certain men remained in the plant, did not leave the plant and go home.

MR. LAUTER: If it please, Mr. Trial Examiner, with respect to that issue, I want to point out within the complaint it is alleged in Paragraph 17: "The Respondent has compelled a considerable number of employees at its Warren, Ohio, plant to remain at their jobs within said plant, and has threatened said employees with discharge and lose of seniority rights and vacation privileges if they left said plant." With respect to that allegation there has been certain proof in this case, and certain instances in which employees had remained and had been influenced in remaining in the plant. In connection with those allegations and that proof, there has not been any defense testimony offered here in this case; instead the Respondent Company has put on other witnesses to show that these other witnesses were kept in the plant for other reasons not in any way related to the allegations contained in the complaint.

Now this witness may have remained in the plant for any number of reasons, one of which may have been that he was afraid to go out because there were pickets outside of the plant. That fact is not in issue in this case. What is an issue in this case is whether or not certain of the employees of the Respondent Com-

pany were influenced in connection with their remaining in their plant; and since Mr. Day has raised the issue so sharply, I want to state my position in this case. I want to state further that it seems to me that a considerable period of time has been spent in showing violence on both sides and we have shown in our case the violence spoken of by the Respondent Company. In connection with that violence we have opened the door. We have never objected—at least I have never objected to the introduction of any defense testimony either at Canton or Massillon, but I respectfully submit in view of the fact that there wasn't one shred of evidence dealing with violence introduced here or in the hearing at Youngstown that I want to object to any further testimony with regard to this witness or any other witness with respect to what they say about guns or clubs or any other weapons.

I would like a ruling on my objection, if your Honor please.

MR. DAY: I want to say that inasmuch as the statement is made here that the hearing in this case is merely a subterfuge to get around the ruling that the Trial Examiner made last Saturday, that is not the fact, and on that issue we are bound by what the Trial Examiner said, and the Trial Examiner has said that we will be permitted to pursue that line in preservation of our rights on that issue. We think that when it is charged in the complaint that the Respondent has compelled a considerable number of employees to remain in the plant, that we have a right to show why the employees stayed there and we are not confined as to the specific instances pointed out by the Labor Board in the presentation of its case. Now we are not going to put on any others until—we are going to ask leave of the Trial Examiner of what would be fair on that issue.

MR. LAUTER: I respectfully submit, Mr. Trial Examiner, that the respondent company has no right to put on any testimony with respect to this matter; that the fact that it requests to put on seven or eight or three or four in no way mitigates my argument.

MR. DAY: I do not think it does, either. We do not wish to be understood that way. That is to say—

MR. LAUTER: This is exactly the same issue which was raised with respect to peaceful picketing. It is alleged in the complaint that the respondent company interfered with peaceful picketing. In defense of interfering with peaceful picketing, the company attempts to come forward and show that on certain occasions picketing was not peaceful. Attempts to offer evidence showing that on those occasions when it was not peaceful what the police did. How can that possibly be considered a defense to what they did, the respondent company, in interfering with peaceful picketing? We have exactly the same proposition with respect to men remaining in the plant. Certain men were influenced in remaining in the plant, by the respondent company. Now, the respondent company wants to come forward and show what it did with respect to other men whom they allege they did not influence. We respectfully submit that that is outside of the scope of the issues in this case.

MR. DAY: We have already stated our position.

TRIAL EXAMINER LINDSAY: I will sustain the objection.

Let the record show an exception.

MR. JONES: Exception. Was that the last question, your Honor?

TRIAL EXAMINER LINDSAY: Yes, it is to any question going into the discussion or evidence purporting to show violence or what the pickets were doing at that specific time.

MR. DAY: Now, we want the record to show that we do not offer this record solely for the purpose of showing actual violence upon the part of the strikers, but we offer this evidence as tending to show why this man did not leave the plant, go home, and come back to work.

TRIAL EXAMINER LINDSAY: Off the record.

(Discussion held off the record.)

(Record read by the Reporter.)

Q. Did you leave the plant, Mr. McCreary?

A. I did.

Q. On what day?

A. June 12th.

Q. How did you go out of the plant? By what gate or what entrance, or in what vicinity?

A. There wasn't any gate.

Q. Where did you go out?

A. I slipped out between the pickets.

Q. At the main gate?

A. No.

Q. What part of the plant?

A. It was along the eastern boundary some place.

Q. What gate was it that you ordinarily went in and out before the strike?

A. The east gate.

Q. Is that the same gate that opens on to the Warren-Niles Road that you told us about?

A. Yes, sir.

Q. Why did you not attempt to go out at that gate when you did leave the plant?

MR. LAUTER: Object to the question as calling for a statement of motives and mental operations of this witness.

TRIAL EXAMINER LINDSAY: Objection is sustained. The record may show an exception.

MR. JONES: May I at this time make my offer

to prove on that, Your Honor?

TRIAL EXAMINER LINDSAY: We will reserve that for the time being and you make your offer to prove in writing, as I want to examine it very thoroughly and a written offer of proof is better than oral, anyway.

MR. DAY: And we would like, if we could, if I have it with me, and I think I have, hand to your Honor a memorandum upon the question as to whether that kind of an answer is admissible; I really would.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Jones) Mr. McCreary, did you later attempt to get into the plant?

A. I did.

Q. At what place did you attempt to enter the plant?

A. Just south of the main gate at the office.

Q. Is that the main gate that you referred to as opening onto the Warren-Niles Road?

A. Yes.

Q. When was it that you attempted to enter that main gate?

A. The first time on the 13th.

Q. Now when was that with reference to the time that you 'snuck' out through the pickets, as you called it?

A. The next morning about three o'clock, four o'clock.

Q. Three or four o'clock on the morning of June 13th?

A. 13th.

Q. How did you come up to that main gate?

A. I didn't get within only about a square from it.

Q. Well, up to that point, how did you come, were you riding or walking?

A. No, I walked up there.

Q. And from that point, how did you go up?

A. Well, there was four fellows came out of some bushes—

Q. Oh, pardon me, were you stopped at that point?

A. Yes.

Q. Then did you get in the plant at that time?

A. No.

MR. LAUTER: Excuse me, at this time I want to object to this line of inquiry as outside of the scope of the issues; incompetent, irrelevant and immaterial whether or not this particular individual now testifying did or did not succeed in his attempt to get back into the plant. I contend that is not relevant to the issues of the case.

TRIAL EXAMINER LINDSAY: As long as they leave violence out of it, I'll overrule your objection there. Let's finish this witness and then we will have a ruling on the complete testimony.

Q. (By Mr. Jones) Did you again attempt to get into the plant?

A. I did.

Q. When was that?

A. The next morning on the 14th.

Q. About what time?

A. At three o'clock exactly in the morning.

Q. Where was it that you attempted to get into the plant at that time?

A. The main office door.

Q. Is that the same gate that you have told us about?

A. Yes.

Q. How did you come up to the gate on that morning?

A. In a taxicab.

Q. Where did the taxicab stop?

A. He didn't stop, I hopped off and let him go.

Q. Where did you hop off?

A. Right in front of the main office.

Q. After you hopped off the taxicab, where did you go?

A. I tried to go over on to the lawn.

Q. What lawn?

A. The office lawn.

Q. Did you go?

A. No, I was stopped.

Q. How far did you get before you were stopped?

A. One foot up on the curbstone at the sidewalk.

Q. Is that the curbstone on the same side of the street that the entrance is on?

A. Yes.

Q. What happened when you were stopped?

A. Well, they hit me over the head with a club.

Q. Was that someone from the front or the rear?

A. From the front.

Q. Were you knocked down?

A. I would have been if someone hadn't come running up behind me and caught me.

Q. From there, where did you go?

MR. LAUTER: Excuse me, at this time I want to object to this line of inquiry and my objection is as previously stated.

TRIAL EXAMINER LINDSAY: Yes, I am going to sustain the objection.

MR. JONES: May we have an exception, Your Honor?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: Does Your Honor desire to have us submit a written offer of proof, the same as in connection with the other question?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: Then do I understand, Your Honor, that all of the evidence as to this witness trying to get back is out, is that right?

TRIAL EXAMINER LINDSAY: Yes, that is im-

material, irrelevant and incompetent.

MR. DAY: All right. We note an exception to the striking of it all out.

TRIAL EXAMINER LINDSAY: Yes, you may have an exception.

(Discussion off the record.)

MR. JONES: That is all, your Honor.

Cross Examination

Q. (By Mr. Lauter) When did you leave the plant, Mr. McCreary?

A. How is that?

Q. When did you leave the plant, Mr. McCreary?

A. June 12th.

Q. You stayed in there from May 26th, is that correct?

A. Absolutely.

Q. How many hours a day did you work?

A. How is that?

Q. How many hours a day did you work?

A. Eight.

Q. How many did you get paid for?

A. Eight.

Q. You were in the plant on May 26th, is that correct?

A. Yes.

Q. You stayed until June 12th?

A. Yes.

Q. And you worked eight hours a day?

A. Yes, I worked eight hours every day.

Q. Seven days a week?

A. Yes.

Q. Didn't you get paid for 14 hours—

A. Several times I worked a little overtime.

Q. Did you get paid for 14 hours?

A. How is that?

Q. Did you get paid for 14 hours?

A. I never figured it up in hours; I never figured it —what I did get paid for.

Q. You testified a moment ago that you got paid for eight hours a day, is that correct?

A. Yes, at least eight hours.

Q. Did you get paid for 14 hours a day?

A. I never figured it up exactly in hours. They paid us time and a half for overtime.

Q. I am asking you whether or not it is not true that you got paid for 14 hours a day while working? Are you still willing to state under oath that you didn't get paid for 14 hours a day?

A. No.

Q. Are you sure you didn't?

A. What is that?

MR. LAUER: Will you answer that question?

(The last question was read.)

A. We got paid for time and a half for overtime.

Q. I am asking you what you got paid for and I am not asking you about overtime. I am asking you if you didn't get paid for 14 hours a day. Now you understand the question, don't you?

A. I can't answer it.

Q. You did answer it before, didn't you?

A. No, not that way.

Q. Didn't you say you got paid eight hours a day?

A. I said I worked eight hours a day; I didn't understand your question.

Q. Now, just a second. How much did you get an hour?

MR. JONES: You mean while he was in the plant?

Q. Prior to the strike, how much did you get an hour?

THE WITNESS: Must I answer?

TRIAL EXAMINER LINDSAY: Why, certainly.

A. 83 cents.

MR. DAY: Tell him about it.

MR. LAUTER: Thanks, Mr. Day, for the suggestion to the witness.

MR. DAY: If he got paid, I want him to state it.

Q. Maybe he will tell us if he got paid for 14 hours a day. Will you tell us that?

A. I can't tell you, to be truthful with you. I never figured it up that way.

Q. And you got 83 cents an hour?

A. Absolutely.

Q. For eight hours a day before the strike?

A. Before the strike?

Q. That is right.

A. Yes.

Q. Now, during the strike and from May 26th to June 12th, did you get 83 cents an hour?

A. Yes, but we got paid time and a half for overtime.

Q. I am asking you for the first eight hours that you got paid 83 cents an hour or more.

A. As far as I know, it was 83 cents.

Q. Now, is that what you are testifying to?

A. As far as I know, it was 83 cents.

Q. Don't you know how much you got paid?

A. What is that?

Q. Don't you know how much you got paid?

A. No. So far as I know, it was 83 cents an hour.

Q. Now, let us see. When did you get paid for the first time after May 26th? Did you get paid in the plant?

A. Yes.

Q. When did you get paid?

A. June 8th, I believe.

Q. June 8th? Do you remember how much you got at that time?

A. I do not.

Q. You have no idea?

A. No, I don't.

Q. No recollection?

A. No, I don't.

Q. And is it your impression that you only got 83 cents for each hour that you worked in the plant during the strike?

A. With time and a half for overtime.

Q. Well, did you work any over time?

A. I did.

Q. During the strike?

A. I did.

Q. And for the time that you worked overtime, you got time and a half?

A. Absolutely, that is what we get, right along.

Q. And are you saying that you got no more for working in the plant during the strike than you received before you went out—before the strike was called?

A. Yes, it amounted to more, but how much I can't tell you. That I don't know. I never figured it up.

Q. Now, you do know that you got more pay when you were in there during the strike?

A. I do know it. Yes, absolutely I do.

Q. Do you know whether you got paid for time and three-quarters for each eight hours you worked?

A. I couldn't tell you for I don't know. I never figured it up.

Q. If you stated in the record that you were paid for each eight hours only eight hours' pay, would you want to change that testimony?

A. Yes, if that is the way it was intended.

Q. No, if that is what you stated?

A. I don't think I stated it that way, if I understand that question right.

MR. LAUTER: Read the cross examination of this witness.

(Record read by the Reporter down to the following point:

"Q. How many did you get paid for?")

Q. (By Mr. Lauter) Just one second. Did you understand that question, "How many did you get paid for?"

A. Do you mean each day?

Q. That is right.

A. For each eight hours?

MR. JONES: If your Honor please, I would like to object to this question. I think it is confusing the witness.

TRIAL EXAMINER LINDSAY: Oh, he is not confused.

MR. JONES: On the ground—

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception. Proceed with the examination of this witness.

MR. JONES: If your Honor please, may I suggest this, if this witness were asked a total about he was paid, it might clear up—

TRIAL EXAMINER LINDSAY: Listen, he doesn't even remember that. He so testified. Let Mr. Lauter examine him.

MR. JONES: Note an exception, please.

(The record was read by the Reporter as follows:

"Q. How many did you get paid for?

"A. Eight.")

Q. (By Mr. Lauter) Is that answer correct?

A. Well, at times we worked a little more than eight hours.

Q. I am asking you whether or not that answer is correct that you gave there?

A. No.

Q. Now, do you want to change it?

A. Yes.

Q. What do you want to change it to?

A. At times we worked more than eight hours. If we had something to do, or a break-down, we had to stay

until—that is, we didn't have to, but we did stay until it was finished.

Q. Was there any other testimony you have given that you would want to change?

A. Maybe we would stay two or three hours.

Q. Just listen to my question. Is there any other testimony that you have given, that you want to change?

A. No.

Q. Do you understand what an oath is?

A. I think I did, if I understand your—what you are trying to get at.

Q. Do you understand what an oath is?

A. I do.

Q. You took an oath when you got on the stand?

A. Absolutely.

Q. Do you know what happens if you don't tell the truth?

A. Well, it is a pretty serious offense.

Q. You understand that?

A. Absolutely.

Q. Now, is there any other testimony that you want to change besides the answer to that particular question?

A. Relative to what?

Q. Relative to anything that you have testified on?

A. Well, you have got me pretty badly twisted up, I don't know what I did testify, now.

Q. Well, when you testified, did you testify to the truth?

A. I thought I did, as near as I could.

Q. And when you said that you—

A. I am not here trying to—trying to pad anything.

Q. No, but when I asked you whether or not you got paid for eight hours' work, only eight hours' pay, what did you say?

A. Yes, but I forgot, I didn't add that we worked some overtime.

Q. Now, you left the plant on June 12th. did you?
A. Yes.
Q. When did you return to work again?
A. The day the soldiers came.
Q. Do you know what day that was?
A. I can't tell you what day it was.
Q. Who was your foreman in your department?
A. Mr. Woodside.
Q. Did you have any conversation with him before you went back to work on the day the soldiers came in?
A. I called him on the telephone, I don't know whether it was that day or the day before, and asked him what the chances were of getting in. And the first time he told me not to try it, that there was a ruling against coming in.
Q. Ruling by whom? Did he say?
A. I took it from the Governor.

MR. LAUTER: I move that the answer be stricken unless the witness can amplify the statement.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. Was there anything more to that conversation?

MR. JONES: Pardon me, may we have an exception to that ruling, if your Honor please?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Mr. Lauter) Was there anything more said at that conversation?
A. Not that I recollect.
Q. Now that conversation took place the day before you went back, a day or two?
A. A day or two before. I called him up numerous times, I don't just remember what day it was, I called him several times while I was out, and—
Q. Mr. Woodside ever tell you when to come back to work?
A. No.

Q. How did you happen to go back the day the troops came?

A. I was in Warren the day they came in.

Q. Yes.

A. And after they had opened the—after the first bunch that were in there came out, we got passes to get back in again. I was sent, I think, to the Sheriff's office, to get a pass. We got stickers for the windshield, you know.

Q. Who sent you to the Sheriff's office to get a pass?

A. I don't mind who it was now, but somebody on the street, I believe it was in Warren, told me that they were issuing passes at the Sheriff's office, stickers for your windshield.

Q. Do you work at the Niles plant or the Warren plant?

A. The Niles plant.

Q. You had several conversations with your foreman before you went back to work?

A. Yes, I called him several times.

Q. He advised you as to whether or not you should or should not go back each time that you called him?

A. He didn't have anything to say about it, he said there was work for me there if I got in, but he didn't know anything about getting me in, whether I could or couldn't.

Q. Now is that the only reason that you went into the plant the day the troops came in? Because you saw they were there? And someone told you to go to the Sheriff's office and get the pass?

A. Yes.

Q. And you had no conversation with your foreman about going back to work on that day?

A. No.

Q. So that when you got back to the plant, you didn't know whether or not you would be able to get in, is that correct?

A. Well, I wasn't sure whether I would, no, I needed to go in, I needed the work.

MR. LAUTER: Well, I move that that answer be stricken as to whether or not the witness needed the work, as not at issue in this case.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Lauter) Yes, did you sign a "Back to Work" petition?

A. No, I heard some talk about it.

Q. You testified about seeing certain pickets; can you identify any of the pickets that you saw?

A. Well, one or two of them, maybe.

Q. By name?

A. One of them I have been told his name. I don't know him by—

Q. Can you identify any persons that committed any act of violence there at that time?

MR. DAY: Well, now—

MR. LAUTER: I'll withdraw the question.

TRIAL EXAMINER LINDSAY: That last question is withdrawn.

Q. (By Mr. Lauter) Did you stay in the plant from May 26th to June 12th?

A. Yes.

Q. You didn't try to get out; is that right?

A. No.

Q. Did you speak to any official about going out, of the Company?

A. No.

Q. Did you want to stay in the plant?

A. Yes.

Q. You stayed in voluntarily, is that right?

A. Absolutely.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Jones) I'll ask you, Mr. McCreary, if you wanted to go home every night and come back to work in the morning?

MR. LAUTER: I'll object to that question on the ground that the witness has already answered that question.

TRIAL EXAMINER LINDSAY: Well, it is not material anyway. Go ahead and answer it. Objection overruled. Let the record show an exception.

MR. JONES: The Court says you may answer the question. Do you know what it is now?

THE WITNESS: Yes.

MR. JONES: Answer it, please.

A. Yes.

MR. JONES: That is all, Mr. McCreary. Thank you.

Recross Examination

Q. (By Mr. Lauter) Just one second, now let's read that question and answer back, please? The last question and answer.

(Record referred to) You wanted to go out each night and come back into the plant, is that correct?

A. Naturally.

Q. Between May 26th and June 12th?

A. Naturally.

Q. And you spoke to no official about going out, is that correct?

A. No, I didn't speak to any of them about going out.

Q. And you made no attempt to go out, is that correct?

A. Yes.

MR. LAUTER: That is all.

MR. DAY: That is all.

CAPTAIN JOSEPH PARILLA

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please, Captain Parilla?

A. Joseph Parilla.

Q. Where do you live?

A. 816 Lexington City.

Q. Youngstown?

A. Yes, sir.

Q. How long have you lived in Youngstown?

A. 38 years; practically all of my life.

Q. Are you an officer of the Ohio National Guard?

A. Yes, sir.

Q. What official connection do you have with the Ohio National Guard?

A. I am captain of one of the line companies.

Q. Of which company?

A. H Company, 146th Infantry.

Q. You have been connected with the Ohio National Guard for how long?

A. Ever since the war. Right after the war, 19 years. 18 years, something like that.

Q. In May of this year, were you a captain?

A. Yes, sir.

Q. I will ask you to state whether or not some time in the vicinity of May 26th of this year you received an official assignment from some superior officer to act as an observer in this vicinity?

A. I did, sir.

Q. From whom did that order come?

A. From the Adjutant General of the State.

Q. Where were you ordered to make your observations?

A. The entire valley.

Q. What do you mean by "the entire valley"?

A. Well, all of the territory affected by the strike.

Q. Do you recall at what time that order came to you?

A. Oh, I would say between 10 and 11 o'clock in the evening; the evening of the strike, that it went into effect.

Q. That is after the strike was called?

A. I understood the strike was to go into effect at 11 o'clock and I received my order just prior to that hour.

Q. In substance, what were you ordered to do?

A. Just observe the situation.

Q. In what locations?

A. Just the entire district.

Q. Were you to act alone or in conjunction with any other person or persons?

A. Alone for the moment until other men were to arrive the next day.

Q. Where did you make your first observations?

A. The Brier Hill District.

Q. Now, the Brier Hill District is where?

A. It is the west end of the city proper and the Sheet & Tube District.

Q. Of the City of Youngstown?

A. Yes, sir.

Q. In connection with the Brier Hill plant of the Sheet & Tube?

A. Yes, sir.

Q. Where did you next make your observations?

A. Well, I made an entire tour of Youngstown and vicinity; of the east here.

Q. How long did you continue, Captain Parilla, as an observer?

A. During the entire period.

Q. That extended from May 26th when you received your order until what time?

A. I might add—change that statement, for a period I acted in a dual capacity. I acted as an observer up to the time that the troops arrived, and then in a few days I acted in a dual capacity; I had other assignments besides being an observer.

Q. What date would you fix that as: the time the troops arrived?

A. The 22nd of June, I believe.

Q. The 20th of June?

A. The 20th of June, if I am not mistaken.

Q. The period from May 26th to June 22nd covered the period that you were an observer?

A. Yes, sir.

Q. During that period of time did you wear a uniform or civilian clothes?

A. Civilian clothes.

Q. Did you make observations from time to time in and about the plant of the Republic Steel Corporation?

A. I did, sir.

Q. In Youngstown?

A. Yes, sir.

Q. Any other plants than in Youngstown?

A. Niles and Warren.

Q. With respect to those observations that were made in the City of Warren, when did they begin?

A. The 27th—pardon me. The 27th is correct; the day following the strike was called.

Q. When you made your first observation in Warren, did you go down to the vicinity of the Republic Steel plant?

A. Not to the entrance of the plant.

Q. How far down did you go?

A. As far as Walnut Street and Pine; Walnut and Pine.

Q. (By Mr. Jones) That is, you started down Pine Street?

A. To Walnut, yes, sir.

Q. To Walnut?

A. Not beyond that point.

Q. I will ask you with reference to Pine Street, if that runs past the plant?

A. Yes, sir, it does.

Q. And when you got down to the corner of Walnut and Pine Street, had you come to the plant yet?

A. No, sir.

Q. How far were you from the plant?

A. I would say approximately 400 yards—three to four hundred yards.

Q. When you got to Walnut Street what did you observe?

A. A barricade there with many people congregated there.

MR. LAUTER: Object and move to strike the word "barricade"; a conclusion of the witness.

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. (By Mr. Jones) Will you please describe what you saw, that you have referred to as a barricade?

A. Many people standing there and no one permitted beyond this.

MR. LAUTER: Well, I move that the observations of this witness be stricken, incompetent, irrelevant and immaterial whether or not there were a group of people there that didn't permit anyone to go by is not in any way related to the issues in this case. Another example of attempting to get in violent action in one form or another, into the record.

TRIAL EXAMINER LINDSAY: Read the last answer back.

(The last answer read by the Reporter.)

MR. JONES: May the answer be excluded, your Honor, and I ask the witness another question?

TRIAL EXAMINER LINDSAY: Well, the objection is sustained and the answer is stricken from the record. If you want an exception, you may do so.

Q. (By Mr. Jones) Captain, I wish you would describe what it was that you referred to as a barricade?

MR. LAUTER: I want to renew my objection to that question and to this line of inquiry. It is perfectly obvious that counsel for the company is attempting to bring out certain actions taken by pickets in that particular area, attempting to bring it out by this witness as an observer for the National Guard. Now, the general conduct of pickets at that particular point on a particular date which has, as yet, not even been identified for the record, is not material to the issues in this case.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception.

MR. DAY: Does that mean, Mr. Trial Examiner, that this witness will not be permitted to tell anything he saw with relation to the pickets at any of the Republic plants in Youngstown, Niles or Warren?

MR. LAUTER: May I state, if you please, Mr. Trial Examiner, that my objection is not as broad as that. I am not objecting to the previous witness giving his observations when he was inside the plant and during the period that he was in there. I do object to having the witnesses put here on the stand as either being in the plant or observers for anyone, testifying on the stand with respect to pickets carrying clubs or weapons or seeing a gun or barricades. Now, it is quite clear what the reason for putting that evidence on is.

MR. DAY: No, it is not that reason. The reason for the fact that this is not another subterfuge is illustrated by another question I just asked the Trial

Examiner. I want to know whether the scope of the ruling is wide enough so as to prevent or prohibit him from telling anything he saw with relation to the pickets. Now, if it is not—

TRIAL EXAMINER LINDSAY: It covers—

MR. LAUTER: My objection is not that broad. The ruling on my objection can't conceivably—

TRIAL EXAMINER LINDSAY: It covers anything that touches upon my preceding ruling.

MR. DAY: That is what I want to know.

TRIAL EXAMINER LINDSAY: No question about it.

MR. DAY: Yes, I am asking you whether or not your preceding ruling is intended to be broad enough so as to prohibit this witness and other witnesses from telling what they saw with relation to these pickets, the number of pickets, what they were doing, and so forth, as distinguished from violence.

MR. LAUTER: No objection has been made to any testimony concerning the number of pickets and what they were doing, excluding violence.

MR. DAY: Now, that brings us down to the question, suppose that a witness testified that a picket is carrying a club, is that violence?

MR. LAUTER: I don't want to get into a supposition of counsel. When the testimony is introduced I think I will make the proper objection and the Examiner will make proper ruling.

TRIAL EXAMINER LINDSAY: All right.

MR. DAY: All right, we will go ahead on that basis.

(The last question read by the Reporter.)

Q. At the intersection of Pine Street and Walnut Street, I'll ask you if you observed any pickets there when you were there the first time, as you stated, on May 28th?

A. I observed a large gathering there.

Q. Did you observe any persons there that had buttons or signs or identification marks on them?

A. I did, sir.

Q. What did you observe on those persons?

A. Wearing these buttons of the organization.

Q. Which organization?

A. CIO organization and possibly a few lapel ribbons, I don't just recall offhand.

Q. About how many persons did you see at the intersection with CIO buttons, or lapel ribbons, as you have told us about?

A. I saw many, I couldn't give you a number on that.

Q. As you came down to that intersection, were you in a vehicle or walking?

A. No, I parked short of this point a few blocks and walked to this point.

Q. Where were these persons that you saw?

A. Rather assembled all along Pine Street, but the large gathering, the largest gathering was there at Walnut and Pine.

Q. Were they on the sidewalks or in the street, or both?

A. Both.

Q. Did you make any attempt to proceed beyond where you saw this assemblage of people?

A. No, sir.

Q. Did you see any persons there wearing the CIO insignia that you have described, carrying clubs?

A. Yes, sir.

MR. LAUTER. Object to the question as leading, also on the grounds of incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Yes, it's stricken. Objection sustained and answer is stricken.

Q. I'll ask you, Captain Parilla, to state, what if anything, you observed in connection with these persons that

had the CIO insignia on, that you have told us?

A. The best way I can state that would be that they seemed in control of the situation.

MR. LAUTER: Object, and move that the answer be stricken; the expression of this witness that "they seemed to be in control of the situation".

TRIAL EXAMINER LINDSAY: Yes, that may be stricken.

Q. Did these persons have anything in their hands, Captain?

A. You are speaking of this crowd at Walnut and Pine?

Q. Persons that you saw had the CIO insignia on?

A. Yes, sir.

Q. What did they have in their hands?

MR. LAUTER: Object to the question on the grounds of incompetent, irrelevant and immaterial, what these persons that were there gathered, as having been identified as CIO members, had in their hands, is in no way related to the case. I wish to state that this repetition as to the type of conduct and type of trial that was conducted in Massillon and Canton, whether or not there were a large gathering of pickets around the plant armed with clubs, is in no way entitled to permit anybody to commit a violation of the National Labor Relations Act.

TRIAL EXAMINER LINDSAY: I'll sustain the objection. Let the record show an objection. It will be all covered in your offer of proof.

MR. DAY: That is what I am trying to find out.

(Discussion off the record.)

MR. JONES: May we make an offer to prove here or in the manner you suggested before?

TRIAL EXAMINER LINDSAY: In the manner I suggested before.

(Discussion off the record.)

MR. JONES: Your Honor, that is all we have on direct examination of this witness. We will include in our—

(Discussion off the record.)

MR. DAY: Let the record show this: That we expect to include the evidence of this witness in our offer to prove with relation to evidence which on Saturday the Examiner held was not admissible under the issues in this case. We called this witness to the stand and asked him certain questions because we were not aware as to the scope of the ruling made by the Examiner last Saturday.

MR. JONES: That is all.

Cross Examination

Q. (By Mr. Lauter) Now, Captain Parilla, you were an observer for the Ohio National Guard, is that right?

A. Right.

Q. And you began your observations on May 26th or May 27, is that correct?

A. The evening of the 26th.

Q. The evening of the 26th?

A. Yes.

Q. You testified about having visited Warren, is that correct?

A. Yes.

Q. And you made certain observations there?

A. Yes.

Q. Could you identify any one of the persons that you saw wearing a C. I. O. button? Can you give us the name of a single individual?

A. A few, I suppose.

Q. Whom you saw there that night?

A. No.

Q. What is that?

A. No, not that night.

MR. LAUTER: That is all.

(Discussion off the record.)

MR. DAY: May we adjourn at this time?

TRIAL EXAMINER LINDSAY: Adjournment until tomorrow morning at 9 o'clock.

(Whereupon at 4:45 o'clock p. m. September 20th, 1937, an adjournment was taken to 9 o'clock a. m., September 21st, 1937.)

Court of Appeals Room, Mahoning County Court House, Youngstown, Ohio, Tuesday, September 21, 1937

The above-entitled matter came on for hearing, pursuant to adjournment, at 9 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board;

Luther Day, Esq., and Thomas F. Veach, Esq., and Arno G. Erdrich, Esq., of the firm of Day, Veach & Young, Union Trust Building, Cleveland, Ohio; Judge Chas. F. Smith, David E. Jones, Esq., Harry S. Manchester, Esq., R. D. Huxley, Esq., and Geo. Renner, Esq., of the firm of Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 25 is rejected. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: As I understand it, Mr. Smith, after you made your offer, that the only purpose of offering these exhibits was to show a picture of the general layout of the plant, and possibly there might be some evidence to connect it up at a later date.

JUDGE SMITH: No, it was also in connection with evidence already introduced.

TRIAL EXAMINER LINDSAY: The ruling is the same. The exhibit is rejected.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: The objection made by Mr. Lauter to the admission of Exhibit No. 25 is sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: The objection made by Mr. Lauter as to Exhibit No. 26 is sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: The objection to Exhibit No. 27 is sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: Now on Saturday, Mr. Smith, I made a ruling on Mr. Lauter's objections to the objection of further testimony on the question of violence not related to the discriminatory cases named in the complaint, and not connected up with any issues stated in the complaint. Now that ruling based on the reasons stated by Mr. Lauter at the time of his objection has not been changed. At that time Mr. Day stated he would like to make an

offer to prove. I granted that right to Mr. Day. Mr. Day stated he would like to have a little time to work it out in writing; that is his offer to prove. I granted that privilege and requested that he present it on Monday. I requested Respondent's counsel to have the witnesses here for Monday morning and start putting in evidence related to the issues. It has not been done. The offer to prove has not been presented. Instead more witnesses were produced on matters affected by my ruling on Saturday. I called counsel for Respondent to the bench repeatedly and requested Respondent to start putting in their evidence on the issues in this case. I advised that such issues stated in the complaint are covered by Section 8, Subdivisions 1, 2 and 3 of the Wagner Act.

Now instead we have testimony brought in here such as the testimony of the witness yesterday, of Mr. McCreary. Now we took up considerable time yesterday of this witness trying to show that that witness was kept in the plant. Now on cross-examination he admitted that he wanted to stay in the plant, and he did stay in the plant during the time of the strike and until a later date. During that time he never made any effort to get out until the day he did. Now what is the purpose of that testimony? It is not meeting the issue.

If Mr. X testified that he was forced to stay in the plant during the time of the strike—

JUDGE SMITH: Mr. who?

TRIAL EXAMINER LINDSAY: We will say Mr. X for example. That if he were forced to stay in the plant during the strike and so testified it is not meeting that issue by bringing in A, B, C, D, E, F, G and H and so on, to testify that they were not forced to stay in the plant. You have got a straight cut issue to meet because he says that he was forced to stay in the plant. Now there is only one way of meeting that is-

sue. That is to show that X was not forced to stay in the plant. Now that type of testimony, if you have it, is the type of testimony that should be produced in this hearing. That is the type of testimony that I want, if you have it, to be presented. You have some discrimination cases here at Youngstown. There is only one way of meeting that issue; it is a straight-cut issue. That they were discriminated against or they were not. Now you can only show that they were not discriminated against by positive proof from people who know whether they were or were not. In other words, there is only one way to admit it and that is by direct evidence on that particular issue. As I have said, I have repeatedly requested, off the record and probably sometimes on the record, until we get down and meet this issue, and that is, what will be done?

JUDGE SMITH: Your Honor—

TRIAL EXAMINER LINDSAY: I don't want a lot of witnesses produced here on things that are not material to this issue; it takes up unnecessary time and is not getting us anywhere.

JUDGE SMITH: May I state our position in regard to that in the record, your Honor?

TRIAL EXAMINER LINDSAY: It isn't necessary.

JUDGE SMITH: We would like to.

TRIAL EXAMINER LINDSAY: These are clear-cut issues, Judge.

JUDGE SMITH: I would like to have the explanation made.

TRIAL EXAMINER LINDSAY: We have too many statements.

JUDGE SMITH: Your Honor, am I not permitted, on the statement that has been made by the Court, to make an explanation of this situation?

TRIAL EXAMINER LINDSAY: An explana-

tion, that's all right, but we must get down to try this case, that's all there is to it.

JUDGE SMITH: That is what we have been trying to do, Your Honor, ever since we have started here. I would like to say in connection with this situation as to the issues that are raised and the specific charges, that this complaint, in addition to the specific persons that are named in the complaint, makes general allegations, one of them as to the interference of peaceful picketing. Now it is our contention when we are charged with interfering with peaceful picketing that we have the right to show the character of picketing that was being carried on. We are also charged with keeping men in the plant against their will; now we think we have a right to call witnesses who were in that mill to testify as to the situation, so far as they are concerned. Now if this question is to apply to any more men than those who are specifically named in the complaint, then we think we have the right to meet that, by calling other men who were in the mill, and then as to what the situation and condition there, as to whether anyone was free to leave that wanted to, and whether instructions of that kind were given so that it was generally known. Now those are two things that, in our opinion, we have right of, under those circumstances to show those things as bearing on the charges made in this complaint on this, as to our interfering in those particulars. Now that is the reason why that we are calling witnesses of that character, Your Honor, and we feel that we got the interests of our clients here to protect, and we are endeavoring as best we know how to protect the rights of our clients in the charges being made against it, and we are in absolutely good faith coming in here based upon our experience as lawyers in the trial of cases, and I think that the counsel that is trying the

case in this defense has had sufficient experience in connection with the defense of cases, that they have some conception of what is necessary to present such a defense, and we are in good faith in trying to carry that out.

Now there isn't any intention on the part of counsel for the defense or the Respondent in this case to in any way prolong this hearing or to avoid any issues or anything else. We are in good faith bringing witnesses in here to your Honor for the purpose of trying to put up what we conceive to be a proper defense of the complaint in this case. I hope that the Court will give us credit for doing this in good faith.

TRIAL EXAMINER LINDSAY: There is no question raised as to good faith. The fact is that I insist that those witnesses be brought on here and issues be met, and that's all there is to be said about it.

JUDGE SMITH: Well, your Honor, on this question I would like to make this question. I never yet have tried a lawsuit but what there were some places in it that the Court probably differed in the theory of the case from the theory that I had in connection with it, but I never yet have tried a case in a court that the court didn't permit me, when I was in good faith, of presenting what my theory of the case was, so that it could be presented and if necessary, to go to a reviewing court, that the reviewing court would see whether I was wrong in my contention or the court was wrong in his contention.

MR. LAUTER: In view of Judge Smith's statement in the record, I would like to say that my position has been stated on the record already, that in connection with actual incidents of interference with peaceful picketing by respondent Company is no defense to show that some of the picketing might have been other than peaceful, that all of it was not peaceful. Further,

that in connection with proof offered by the Board's counsel with respect to certain individuals being kept in the plant, that it is no defense by respondent Company to show that other individuals were not kept in the plant by the respondent, that it would not be sound, it is not sound, rather, for counsel for the Respondent Company to take the position which he has in the statement which he has made, and that it would be equally unsound for the Respondent to defend against the discriminatory discharge by showing that other employees of the Respondent were not discriminatorily discharged or were not discriminatorily refused reinstatement.

JUDGE SMITH: In answer to that I want, in view of the staement made by Mr. Lauter, to state our position on that. It is our claim that we have the right to show only as to specific instances as to how the picketing was carried on, but if we can show that under the rules of law and under the definition of lawful picketing at all times, that this picketing was unlawful and was not carried on in a peaceful manner, and that the pickets were carrying clubs and weapons of different sorts in which they were threatening—

TRIAL EXAMINER LINDSAY: Now wait a minute, just a second. Are you making an offer of proof right now?

JUDGE SMITH: No, I am not, I am stating in the record the answer to the statement made by Mr. Lauter as to what our position is.

TRIAL EXAMINER LINDSAY: Now leave clubs out of it and so forth, because that is going into the offer of proof.

JUDGE SMITH: I understand that—

TRIAL EXAMINER LINDSAY: Just leave that out, you can answer that without those things.

JUDGE SMITH: All right, then I'll not say

anything about that feature of it, but we have a right, it is our contention that we have a right to show the character of picketing that was carried on at all times there, and if in the showing of that character of picketing that was carried on, that it shows that it was all unlawful picketing, then we certainly are meeting the charge that we interfered with lawful picketing. Now it is our claim that the picketing was unlawful throughout and that our evidence would show that it was unlawful picketing from the inception and during the entire period that is covered by this complaint.

Now, therefore, we do not feel that we are limited to the question of specific instances, as Mr. Lauter claims, and that therefore, any item of unlawful picketing is competent with the defense of this case.

MR. LAUTER: The allegation of the complaint does not refer to interference with lawful or unlawful picketing. It relates solely to peaceful picketing, and the charge as made, of interference, and proof of interference, that deals with peaceful picketing, and it cannot be seriously urged by counsel for respondent company that at all times picketing by the pickets was not peaceful.

TRIAL EXAMINER LINDSAY: Now, listen, we have had plenty of statements on this; I am sure you have both had opportunity to fully state the questions and I believe that under the rules of practice that the last statement is made as a matter of fact—the plaintiff in most any case usually has a last word on these matters as to a statement made, argument on any matter. The argument on any question is entirely up to the discretion of the court.

MR. SMITH: I bow to that. I bow to that.

TRIAL EXAMINER LINDSAY: There is no doubt about it.

MR. SMITH: None whatever.

TRIAL EXAMINER LINDSAY: I must call a halt somewhere, so I am calling it now, and let's proceed with the hearing.

MR. SMITH: The only thing I had in mind was the play on the difference between "unlawful" and "peaceful" picketing.

TRIAL EXAMINER LINDSAY: Well—

MR. SMITH: I meant to say that I mean the same thing.

TRIAL EXAMINER LINDSAY: All right.

MARTIN J. CARNEY

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Carney?

A. Martin J. Carney.

Q. And where do you reside?

A. 115 Park Avenue, Youngstown.

Q. How long have you lived in Youngstown?

A. All my life.

Q. How are you employed?

A. I am the clerk of the municipal court of the City of Youngstown.

Q. How long have you been serving in that capacity?

A. Well, I have been serving as clerk of the municipal court, this is the twenty-fourth year.

Q. Now, as clerk of the municipal court, do you have charge of the records, the criminal records of your court?

A. I do.

Q. Have you, at our request, made an examination of those records as to one Jerry L. Simcox?

A. I have.

Q. Do you have your records with you on that?

A. Yes.

Q. I wish you would let us have the record you have.

(Witness produces document.)

TRIAL EXAMINER LINDSAY: May I see the complaint?

MR. SMITH: He is one of the cases.

TRIAL EXAMINER LINDSAY: Simcox is not in the complaint.

MR. SMITH: Your Honor, I am in error as to him being in the complaint, but he testified in the case, in the Board's case in chief.

TRIAL EXAMINER LINDSAY: Then your only purpose, there, would be to discredit the testimony?

MR. SMITH: That is right.

Q. (By Mr. Smith) From your records, Mr. Carney, what does that show as to any arrest and conviction or pleading guilty of Mr. Simcox to any charge?

A. Well, this paper is a complaint and warrant signed by Carl H. Cook against—

TRIAL EXAMINER LINDSAY: Now, just a minute on that. There is a well defined procedure to get that into the evidence.

MR. SMITH: Well, I thought that—

TRIAL EXAMINER LINDSAY: All that is necessary to ask is, "Was this man convicted of an offense". Now, if it is a felony, that is one thing. If it is a misdemeanor, that is another thing. If he was either by his plea or by a jury or a court—

MR. SMITH: All right, I will ask him that.

TRIAL EXAMINER LINDSAY: But to go into all of the details is a matter which is entirely for cross examination.

MR. SMITH: All right.

Q. (By Mr. Smith) Was this man Simcox convicted of any offense in the Municipal Court of Youngstown?

A. He entered a plea of guilty on July 15, 1935, to obtaining—

TRIAL EXAMINER LINDSAY: Just a minute, now. He was convicted, then, by his own plea, of a criminal offense?

THE WITNESS: He pleaded guilty.

Q. (By Mr. Smith) Now, what was that offense?

TRIAL EXAMINER LINDSAY: That is a matter for cross examination.

MR. SMITH: I thought we have a right to show what the offense was, that he was convicted of.

TRIAL EXAMINER LINDSAY: The only thing that you could do to discredit a man's testimony is to show that he was convicted of a criminal offense.

Q. (By Mr. Smith) Was this a criminal offense or charge?

A. Yes.

MR. SMITH: Frankly, it was my understanding that we had a right to show the offense of which he was convicted.

TRIAL EXAMINER LINDSAY: No, that is the procedure and—

MR. SMITH: All right.

TRIAL EXAMINER LINDSAY: That is up to cross examination.

Q. (By Mr. Smith) What year was that that he pleaded guilty?

A. 1935.

Q. All right.

MR. SMITH: I would like to have an exception on the refusal of the Court to permit him to answer that question.

MR. LAUTER: I am making no objection, Mr. Trial Examiner, if counsel for the respondent company wishes to question along this line.

TRIAL EXAMINER LINDSAY: Under those circumstances he may ask him about that. Go ahead.

Q. What was the offense of which he pleaded guilty?

A. Well, the offense was obtaining Federal Emergency Relief; a grocery order. Taking groceries from Federal Relief Emergency Administration.

MR. SMITH: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) Is that a misdemeanor?

A. (No answer).

Q. Do you know whether that is a misdemeanor?

A. Yes, a misdemeanor.

Q. May I see the records from which you are reading?

A. This is the record of the case (handing a paper to Mr. Lauter).

Q. Is that also a part of the record?

A. They were in the files. One is a bond.

TRIAL EXAMINER LINDSAY: To clear the record, since you did ask that question, Mr. Smith then you withdraw the exception?

MR. SMITH: Yes, surely, withdraw the exception that I asked for in connection with the question as to the effect to which he pleaded guilty.

Q. Testifying in this case, have you been referring to the docket of the Municipal Court of the City of Youngstown?

A. No, I haven't.

Q. Well, is there a docket on this case?

A. Yes, sir.

Q. And have you that docket here in Court?

A. No, I haven't.

Q. Well, what are the papers that I now hold in my hand?

A. The affidavit, and complaint and a bond—that letter. I don't know just what that letter is.

Q. Now, what is this (indicating)?

A. Those are the records—

Q. Let me finish my question. Are the papers which I now hold in my hand a part of the official docket of the case?

A. They are a part; they are a record made by the Judge.

Q. Do you know Mr. Jerry Lee Simcox?

A. No, I don't.

Q. Do you know whether or not the person who has been convicted of taking and obtaining from the Federal Emergency Relief Administration a grocery order to the amount of $7.61 by false pretenses, and saying that he was in dire need, is the same Jerry Simcox who is named in this case?

A. I don't.

Q. And when the name appears on this docket here as Larry and Cora Simcox, you don't know whether that is the Jerry Simcox that is in this here (indicating)?

A. No.

Q. If there is a letter contained in this file referring to a Robert Simcox, and an arrangement made with the Republic Steel Corporation whereby he is also to work at the plant, and also spend sometime in jail, you don't know whether Robert Simcox is the one in this case?

A. No, I don't.

(Discussion off the record.)

MR. SMITH: Now, so far as these records are concerned, I have no objection to these records being marked and a copy substituted for them, but we certainly don't want to take the official record.

TRIAL EXAMINER LINDSAY: The fact is that you would not be permitted to take the official record

out of the Court, but you do have a photostatic arrangement here in the city, is that right?

MR. SMITH: We can have it photostated.

TRIAL EXAMINER LINDSAY: Therefore, you will [have] this photostated, and a photostat of the original may be substituted and become an exhibit in this record.

MR. SMITH: I will say on this if there is any question in regard to the identity of this man, we will supply evidence showing that it is the same party.

TRIAL EXAMINER LINDSAY: Well, the records still have a right to be made a part of the case as a matter of record by exhibits.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: If that is the desire of counsel representing the Board. So I suggested that you have photostated copies made of this.

MR. LAUTER: Until such time as photostatic copies are made, I should like to read into the record the documents taken from the official document file of the Municipal Court of the City of Youngstown, Docket 3578 and 3579, there is contained therein the following letter: "July 22nd, 1935, Sheriff of Mahoning County, Youngstown, Ohio, Dear Sir: You are hereby authorized to arrange for Robert Simcox, who is now in jail on sentence of $50.00 and costs, and sixty days, to see that he goes to work at the Republic Steel Corporation, where he is employed under Check No. 5521, to serve the rest of his spare time in jail. In other words, release him one hour each day for work and he shall return to jail each day not later than one hour after he is through with his day's employment. You will check with the officials of the Republic Steel Corporation as to his working.

I am informed that he is going to go to work at three o'clock this afternoon, take care of this matter

and oblige. Yours very truly,'' and there is a line under which there appears the word 'Judge' and the initials on the side are HPB:B.

Q. (By Mr. Lauter) Do you know who HPB is?

A. Let me see the letter; that's Henry P. Beckenbaugh, he is now judge of the Court of Domestic Relations.

TRIAL EXAMINER: Just a minute, was he at that time?

THE WITNESS: He was at that time Judge of the Municipal Court.

MR. LAUTER: That is as much of the official records that we are interested in putting into the record at this time.

JUDGE SMITH: I wish the record to show that when Mr. Lauter read from the affidavit, or the complaint, he spoke about Laurie and Cora Simcox, that that is followed by ''alias Jerry Simcox.'' The portion of ''alias Jerry Simcox'' was not read and that does appear in this complaint.

MR. LAUTER: I'll stipulate that it appears on one of the documents contained in the official docket.

THE WITNESS: Docket No. 20, page 163.

MR. LAUTER: On Docket No. 20, page 163, that that is one of the several documents contained in that docket record.

JUDGE SMITH: What is that?

THE WITNESS: That is the jacket.

JUDGE SMITH: Do you want a photostatic copy of this since you read it into the record?

MR. LAUTER: No, that is not necessary. Let me ask you this further question—

JUDGE SMITH: I guess these haven't been marked, in order to be introduced. I don't care anything about them; if he wants them marked, it is up to Mr. Lauter.

MR. LAUTER: I haven't offered them yet. The only document I want entered I read in.

JUDGE SMITH: Then we will retain them at the present time, as to whether or not they should be presented. I guess that is all, Mr. Carney.

MR. LAUTER: Just one more question.

Q. (By Mr. Lauter) The conviction was for taking seven dollars and sixty-one cents, is that correct; that this man said he needed direly?

A. I can't hear you very well.

JUDGE SMITH: I object to that question. Read the last question, please, that he stated.

(Question read by reporter.)

JUDGE SMITH: Now there is nothing in this record that would warrant any such conclusion and question. I move that that question be stricken out.

MR. LAUTER: That is the statement contained on the face of the complaint.

JUDGE SMITH: Then read it in the complaint.

TRIAL EXAMINER LINDSAY: There is no necessity for arguing.

MR. LAUTER: I'll withdraw the question.

JUDGE SMITH: All right. Then I'll withdraw my objection.

MR. LAUTER: That is all.

JUDGE SMITH: That is all, Mr. Carney.

RALPH MONDORA

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name, Mr. Mondora?

A. Ralph Mondora.

Q. And where do you live?
A. 873 East Philadelphia.
Q. In Youngstown?
A. Yes, sir.
Q. Where are you employed?
A. Republic Steel Corporation.
Q. How long have you been employed by that Company?
A. Fourteen years.
Q. In what capacity are you employed?
A. Superintendent clerk of the butt and lap tube, Furnace Department.
Q. How long have you held that position?
A. A year and a half.
Q. Had you been employed in other capacities with the Republic prior to that time?
A. Yes, sir.
Q. What other capacities?
A. Laborer and all other jobs, whenever I first started.
Q. That is, you didn't have regular employment, do you mean, when you first started?
A. I did, as a laborer and different jobs throughout the mill in the department.
Q. Do you recall when the Employees' Representative Plan was introduced in Republic Steel Corporation plant?
A. Yes, sir.
Q. When was that?
A. 1933.
Q. Do you remember the month?
A. June.
Q. Were you elected to any position in connection with that plan?
A. Yes, sir.
Q. Just tell the Court how the matter first came up to the employees in regard to the formation of this organization?

A. Why the start of the plan, there was a committee selected to put this plan through, and that was given out by the corporation.

Q. Well who called the committee? How was that arranged?

A. Why, it was just arranged through the well-known fellows throughout the plant, different departments.

Q. Well who called the meeting, Mr. Mondora, if you know?

A. Why the company called the meeting.

Q. The company called the meeting?

A. Yes, sir.

Q. And do you know about how many people were present at that meeting?

A. I imagine about eight.

Q. Were you one of them?

A. Yes, sir.

Q. And was there at that time submitted any papers or book or any form of this plan?

A. Yes, sir.

Q. And do you remember, or can you state to the Court what the discussion was, at this meeting you speak of?

A. Why it was to get this plan out amongst the plant, and the nomination and election.

Q. What was done in connection with—you say, now, "nomination." Tell us what was done in regard to nomination and election?

A. Why there was ballots and books given out to the employees for this plan. And it was put out to the men for an election for representatives. Was about—oh, I imagine about June 15th or 10th.

MR. SMITH: Mark this Respondent's Exhibit 28.

(The document above referred to was marked as Respondent's Exhibit 28 for identification).

Q. I show you a paper that has been marked as Re-

spondent's Exhibit 28. I will ask you whether that is the kind of nomination paper you referred to?

A. Yes, sir.

Q. Well do you remember who furnished the blanks for this, if you know?

A. The company.

MR. SMITH: I desire to introduce Respondent's Exhibit 28.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 28 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 28 was received in evidence.)

Q. What was done with those nomination blanks, after you received them?

A. Why, we didn't receive them. They was put in the voting booths. These papers.

Q. Well who had charge of this nomination and election?

A. Why, this committee that was elected, had arranged different booths and places for the election to take place.

Q. When that committee met, there, did you organize, and elect officers of your committee?

A. Yes, sir.

Q. And who was elected chairman of the committee, at that meeting?

A. At that meeting, Mart Murphy was the head man of this committee.

Q. And then at the nomination, did the different members vote, at the nomination?

A. Yes, sir.

Q. As to who was to be nominated?

A. Yes, sir.

Q. Now what arrangement was made in connection with that nomination, and the voting on the nomination?

A. Why all of the men was informed about the election for nomination for representatives, and they are all to go to our voting booths and vote for whoever man that they wanted to have represent them.

Q. Well suppose you were a candidate for one of the offices; how would you get your name on this nomination paper?

A. I would go out and tell the fellows. Tell the fellows who to vote for. If I wanted to run, why I would tell them to vote for me.

Q. And how long after the nomination was it, before you held your election?

A. About five days.

Q. Now who was in charge of the voting booths at the time of your nomination?

A. Why this committee that had been picked to put this plan out.

Q. Was there any representative from the Republic Steel Corporation, that participated in that nomination?

A. No, sir.

Q. Or had anything to do with the conduct of the election on the nomination?

A. No, sir.

Q. Voting on the nomination?

A. No, sir.

Q. Or the counting of the ballots?

A. No, sir.

Q. Now you say they were booths were put up, there. What do you mean by that? Similar to an election booth?

A. That is right.

Q. At the ordinary election?

A. That is right.

Q. Now when they went in to vote on this, either for elections or nominations, how was that taken care of, as to being—anybody knowing what the party voted, how he voted?

A. Secret.

Q. How was that handled?

A. That was secret ballot. That was up to the man going in to sign his ballot.

Q. Just state the operation, how that occurred when you went up there, if you were going up to vote, what would you first do?

A. Why if you was going up to vote, they would have your name and check number on the books, and as you come in, you would tell them who you was.

Q. Yes.

A. And the other fellow would hand you a ballot.

Q. Well now that would be, one of your committee, or one of your officers?

A. That is right.

Q. Of the Employees' representative?

A. At the table.

Q. Then what would you do?

A. Then you would take your ballot and walk over and mark it, over in your booth.

Q. Did anybody see into the booth, when you were marking it?

A. No, sir. That is up to the man, himself.

Q. Now what would you do with your ballot after you had voted?

A. Why you come over and after you had voted, you would drop it in the ballot box.

Q. What kind of a ballot box was it?

A. Why, a sheet and iron box. You might call that that kind. The same as you have in voting booths.

Q. Was it locked up so no one could get it?

A. Yes, sir.

Q. Do you know who has a key to the ballot boxes?

A. The chairman of this committee had all the keys.

Q. How many of these voting booths were there? How many would there be, if you know?

A. Well, they was distributed at the first time we had held an election—it was new to us and we had them distributed and placed throughout the plant.

Q. Now, we have been referring to the first election. Now, do you know of your own knowledge how many nominations there were of the officers in this company? Representatives in this company representation plan?

A. There were eighteen the first year.

Q. 18?

A. Yes.

Q. Were there more nominees than that?

A. Yes, sir.

Q. How many nominees were there, do you know?

A. Three to each man to be elected. That was arranged that different departments where they have so many representatives.

Q. What was the purpose of having the three for each office?

A. Why there was one representative for about every 200 employees in the division—what you call the department.

Q. Well, would some that acted as delegates, and some that acted as representatives, and some that acted as alternates?

A. That is right.

Q. Now, how is that taken care of?

A. Why, the men receiving the highest vote would become the representative, and the fellow next to him would become the alternate. In case anything happened to him or he would give the job up, regardless of what happened.

Q. That gave him the right as an alternate to perform the duties of a representative when the representative was not present, is that correct?

A. That is right.

TRIAL EXAMINER LINDSAY: Let the record

show that in my citing the subdivisions of Section 8, meaning 1, 2, and 3, I was not referring to the section to subdivision 6 and 7 of the Act which are also included in the complaint.

Q. I show you a paper that has been marked as Respondent's Exhibit 29 for identification, and ask you to state what that represents (handing a paper to the witness)

A. This represents the nominations for the men that were running for representative.

Q. That is those men who were nominated on the voting of the nominations?

A. That is right.

Q. And that is the form of ballot, was it, that is used in this connection?

A. Yes, sir.

JUDGE SMITH: I desire to introduce in evidence Respondent's Exhibit 29.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 29 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 29" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit 30 for identification and ask you what that form is for (handing a paper to the witness)?

(Thereupon the document above referred to was marked Respondent's Exhibit 30 for identification.)

A. This form was used for the nomination of fellows that had been elected at nominations, and were posted throughout the plant for the men to see who were nominated.

Q. Now, you say posted. What do you mean, on the bulletin board or something of that sort?

A. At departments; at the entrance of departments that was put up for the men to see.

Q. Have you the names of those who had been placed on nominations of the votes of the nominees that were named on this form and posted so the employees would know who they were, is that correct? Is that the way it was?

A. That is right.

JUDGE SMITH: I desire to introduce Respondent's Exhibit 30 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 30 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 30" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit 31 for identification and ask you what that is (handing a paper to the witness)?

(Thereupon the document above referred to was marked Respondent's Exhibit 31 for identification.)

A. This was the names—the candidates—the nominated candidates that was posted throughout the mill. The number of votes that each had received.

Q. Is that for the candidates?

A. Yes, sir.

Q. And the number of votes received?

A. That is right.

JUDGE SMITH: I desire to introduce that in evidence as Respondent's Exhibit No. 31.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 31 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 31" was received in evidence.)

Q. I show you a paper that has been marked as Respondent's Exhibit No. 32 for identification. I ask you to

state what that is (handing a paper to the witness)?

A. This here was the employees that were elected on that day, and the Chairman, and the Vice-Chairman, and so on, of the different committees.

Q. What does the upper part of this paper represent (indicating)?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 32 for identification.)

A. Just a notice.

Q. Notice as to what?

A. To the employees—to the election. The plan of the Employees Representatives.

Q. Well, this purports to show the date of nomination in which the vote is to be taken, and also the date of the election at different votes, is that right?

A. That is right.

Q. So that the plan that was followed there in serving the notice was so the employees would know of the date of nomination and of the election?

A. Yes, sir.

JUDGE SMITH: I desire to introduce Respondent's Exhibit No. 32 in evidence.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 32 may be received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 32" was received in evidence.)

JUDGE SMITH: Now the next Exhibit, please, Respondent's Exhibit 33.

(The document above referred to was marked as Respondent's Exhibit No. 33 for identification.

Q. (By Judge Smith) I show you a paper that has been marked as Respondent's Exhibit 33 and ask you what is the purpose of that form?

A. That was for the nominees that was elected to the Plan.

Q. In other words, a certificate showing who had been elected as representatives, is that correct?

A. That is right.

JUDGE SMITH: I desire to introduce the Exhibit No. 33.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 33 received in evidence.

(The document previously marked for identification as Respondent's Exhibit No. 33 was received in evidence.)

Q. Now at the time that this plan was started, was there any book or pamphlet of a constitution and by-laws that were presented to your committee at the time you met before the nomination and election?

A. Yes, sir.

JUDGE SMITH: Mark that Respondent's Exhibit 34.

(The document above referred to was marked as Respondent's Exhibit No. 34 for identification)

Q. (By Judge Smith) I will ask you as to the book or pamphlet that has been marked as Respondent's Exhibit No. 34, as to whether or not that is the pamphlet that was presented to the committee at the time this meeting was called?

A. Yes, sir.

JUDGE SMITH: Mr. Lauter tells me that these three books have been introduced in the Board's case.

Q. (By Judge Smith) Now was the pamphlet that you have just identified, was that submitted to the employees for adoption, and did you adopt it?

A. Yes, sir.

Q. I believe there were some amendments made to

that at different times during the period of the existence of this Employees' Representative Plan?

A. Yes, sir.

Q. Were you elected as a representative at the first election in 1933?

A. Yes, sir.

Q. And you were representive representing what department?

A. Butt and lap Furnace Department.

Q. And how many representatives were there in that department?

A. Why, in the Tube Work Department, let me see, there was six of them, six representatives.

Q. How were the representatives apportioned, Mr. Mondora?

A. One to approximately every two hundred employees to a department.

Q. Now were you elected at the different periods, years, while this Plan was in force?

A. Yes, sir.

Q. So that you served as a representative throughout the time this Employees Representative plan was in force in the plant?

A. That's right.

Q. Now under this Plan, I believe there were different committees; will you state how many committees?

A. Four committees.

Q. And how were they designated?

A. Number 1 Committee was Rules, Ways and Means; Number 2 was Wages and Working Conditions, Number 3 was Safety and Sanitation, Number 4 was the Appeals Committee.

Q. Now were these referred to as standing committees?

A. Yes, sir, standing committees.

Q. Now what do you mean by that?

A. Why, a standing committee was just the representatives alone, that we attended the meetings; we would attend once a month, that was four standing committees, and we had other committees which we called Joint Committees.

Q. That is, your standing committee would be the meeting of the representatives that were elected by the employees alone?

A. That's right.

Q. Now did those standing committees meet every month by themselves?

A. Once every other month.

Q. Now, on your joint committee, when you would meet with the representatives appointed by the Company, did you call that a joint meeting or joint committee?

A. Yes, sir, joint committee.

Q. And how often would those meetings be held?

A. Once every other month.

Q. That is, on alternate months to the month in which you met by yourselves?

A. That's right.

Q. Now did you have another committee known as the General Body?

A. Yes, sir.

Q. Now of whom did that consist?

A. Of all the representatives, the employees' representatives.

Q. The ones that were elected by the employees?

A. That is right.

Q. Now how often were those meetings held?

A. Once a month.

Q. They were held once a month?

A. That's right.

Q. Now the standing committee by itself met once every other month?

A. That is right.

Q. And the joint committee once every other month?

A. That is right.

Q. But the general bodies met every month?

A. That's right.

Q. And at the meetings of the general bodies committee, or the standing committee, were there any officials or representatives of the Company present at those meetings?

A. At the general or standing committee?

Q. Yes.

A. No, sir.

Q. Now when your representatives, after they were elected, how would you arrange for the officers of the Representative Plan?

A. The representatives would elect the officers, these different groups; we would elect our own officers.

Q. And the chairman would call the meeting, the chairman of the previous committee, is that right?

A. That is right.

Q. And then you would meet and elect officers?

A. That is right.

Q. Now what officers would be elected?

A. Why, we would first elect a chairman and then we would select and elect a vice-chairman and a secretary, and our chairman and vice-chairman would name the other committee on Number 1, 2, 3 and 4, they would appoint the members of those committees.

Q. Now the committee that was appointed by the chairman would, then, every other month, have joint meetings with the committee appointed by the corporation?

A. That is right.

Q. Do you know of any regulation, as to who should announce their committeemen that met in joint committee, first? Whether it was the employees of the company?

A. They would elect their side, their groups?

Q. Yes.

A. That would be up to them. We had nothing to do—

Q. Well I mean, were you notified—if you know, now—whether the chairman was notified of who the company committee would be, before he appointed his own committee from the employees?

A. No, sir.

Q. I see. I mean that from the purpose of whether there would be any conflict of having an employer officer and employe on the same committee? Do you know anything about that?

A. No, sir.

Q. Whether that was arranged, or not?

A. (Witness shakes head.)

Q. Now what was the situation in regard to making of claims, Mr. Mondora?

A. Making of claims?

Q. Complaints?

A. Complaint? Why, grievance—a man would either go to the foreman or come to the representative.

Q. Well, now, just explain how—say that in your department, when you were a representative there, if someone would come to you and make a complaint, just tell the court how you would handle it?

A. Why, when they would come to me and make a complaint, if—it was my procedure of the job, I would take it to my foreman if I wanted to. I didn't have to. I could skip the foreman. I could go up to the superintendent, in written form.

Q. Oh, by the way—

MR. SMITH: Just mark this exhibit 35.

(The document above referred to was marked as Respondent's Exhibit 35 for identification.)

MR. LAUTER: I want to point out all those forms are already in the record.

MR. SMITH: Yes.

Q. On this, I will show you Respondent's Exhibit 35 and ask you what that form was used for?

A. This is a form, we would file our cases.

Q. Now, if you were taking this up to the superintendent, would you fill it out on this form? Is that what you mean by your "written form"?

A. Yes, sir.

MR. SMITH: I desire to introduce Exhibit 35.

MR. LAUTER: No objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 35 is received in evidence.

(The document previously marked for identification as Respondent's Exhibit 35 was received in evidence.)

Q. Now, when you took this complaint in, if you went to the foreman, what would happen if you didn't get an adjustment made to your satisfaction?

A. To the foreman?

Q. Yes.

A. I would make this written request out here, form, and send one copy—

Q. You refer to Respondent's Exhibit 35 when you say "this request"?

A. That is right. There was four copies. I would mail two to the superintendent, one to Mr. McCoy, who was management representative, and one I would keep for my file.

Q. What is Mr. McCoy's title, do you know?

A. Relations—Wait a minute.

Q. Well, if you don't remember, why it is all right.

A. I don't remember. At that time McCoy was management representative.

Q. Now, after you had filed the complaint, that is, you had sent these copies that you spoke of, then what would be the next step?

A. Why, the company had fourteen days—or the department superintendent had fourteen days prior to get his final decision on it. That was his grace in there, he was allowed 14 days.

Q. Well, suppose, on that that his decision was favorable to your claim. Then what would happen?

A. If it was favorable to my claim, why we dropped the case.

Q. And if it was unfavorable, what would happen?

A. Then I would, with a written form—not a form but letter—I would send in to Mr. McCoy, stating that I wanted this case to be taken to the proper committee.

Q. And the proper committee was determined by the character of complaint it was, is that correct?

A. That is correct.

Q. Then you would take that up with Mr. McCoy and just follow the procedure, now, from there?

A. We would follow the procedure from there, would be the case would be taken into a committee and we would have this fourteen day grace, it didn't make any difference to us when they would settle it in our favor, because after that fourteen day, prior to the day that the foreman filed, these men would receive back pay when the case was settled in our favor.

Q. I see. That is, if it was a question of wages?

A. That is right. Most of them were.

Q. Most of them were, were they?

A. That is right.

Q. And you mean by that, that the action of the committee was retroactive to the date of the filing of the complaint, is that what you mean, Mr. Mondora?

A. That is right.

Q. So that any delay, if it was a question of wages, any delay in connection with it did not in any way work harm to the complainant on account of not receiving the

full amount back to the date of his claim, if there was delay, is that correct?

A. That is right.

Q. Now, suppose that that goes to your complaint has gone, now, to this committee, after you have notified Mr. McCoy. Now, what is your procedure then before this committee?

A. Why, this case will be—is brought up before a joint committee. That is five members of the committee and five of us representatives.

Q. Yes.

A. And we argued this case out. Mr. McCoy is their defense and the fellow, whoever placed the—

Q. I am talking about your claim, now. We are carrying it through.

A. Why, we—

Q. That is, somebody you would file a complaint for, what would you do then?

A. I would be the man to fight the case.

Q. That is, you would present your arguments in favor of your claim to this joint committee?

A. That is right.

Q. And Mr. McCoy would present his arguments against it to the joint committee?

A. That is right.

Q. And then after submitting that the committee, I suppose, would take some action on it?

A. They would take a vote.

Q. Yes.

A. There would be a vote taken.

Q. Well, now, what would happen on that? Suppose that that vote was adverse to you, what procedure would you follow?

A. Well, there was two votes taken on each committee. We was allowed—we had made—set up a ruling to allow

two votes. After the first had failed, why we would argue the case over again.

Q. You could have a re-hearing on it?

A. That is right, and have another vote taken after the hearing was all set.

Q. Well, if that was finally disposed of in that way, what was the disposition that could be taken?

A. Why, I had three days to file this case with the Appeals Committee, within three days.

Q. Now, the Appeals Committee, was that No. 4 Committee?

A. No. 4 Committee.

Q. Now, assuming that you had a case that you wanted to appeal from, just state the procedure, or what you would do with this case of yours, in going to the Appeals Committee?

A. In putting this case in the Appeals Committee, I would have to file within three days, with Mr. McCoy, to have this case put in No. 4 Committee.

Q. Well, now, what do you file, in connection with that? Would you just—would you write a letter or—

A. Just write a written form of letter to Mr. McCoy, stating my procedure.

Q. I see. Then by you doing that, would that take it before the Court of Appeals without any action on the part of Mr. McCoy?

A. Why, some cases it would, yes. On some cases they might give us a settlement before it would get through to the Appeals.

Q. But I say, if you didn't get a settlement, your notifying Mr. McCoy was all that was necessary for you to bring your matter to the Appeals Committee, is that correct?

A. Yes, sir, that is right.

Q. Now, what is your procedure, before the Appeals Committee, when you get your case up there?

A. Why, we would appeal the case to that committee, he same as we did with No. 2 committee.

Q. I see, and you would appear and represent your arty, and Mr. McCoy would appear to represent the com-ny?

A. That is true.

Q. And you would argue your case to the Appeals Committee?

A. That is right.

Q. Now, what was the situation in the event that the Appeals Committee did not give you the relief you thought you ought to have?

A. If they didn't give us any satisfactory answer, we had a right to go before the president of the company with it.

Q. Yes, and then suppose that that is taken before he president of the company, then what was the situation f that wasn't in your favor?

A. Well, then it was taken to the arbitration board.

Q. And how was the arbitration board to be set up?

A. That was to consist of an employee representative lected by the employees representatives, and one to consist f the company man, and the other one would be elected y the two appointed.

Q. Selected by the two?

A. That is right.

Q. And then your board of arbitration would finally ispose of the proposition?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

TRIAL EXAMINER LINDSAY: We will have a short recess.

MR. SMITH: Thank you.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

JUDGE SMITH: I should like to have the question as to how the Board of Arbitration was appointed, and the answer read.

(Whereupon the Reporter read the following questions and answers:)

"Q. How was the Arbitration Board set up?

A. That was to consist of an employee representative elected by the employees' representatives, and one to consist of the Company man, and the other one would be elected by the two appointed.

Q. Selected by the two?

A. That is right.

Q. And then your Board of Arbitration would finally dispose of the proposition?

A. Yes.

Q. Is that correct?

A. Yes, sir."

Q. Now, Mr. Mondora, did you want to change your answer as to who would compose the Board of Arbitration?

A. Yes, sir.

Q. Now, just state what you have in mind as to the change there.

A. The election of the Arbitration Board by the Chairman—not the Chairman—the Appeals Committee—the Arbitration Board on the employees' representative side would be appointed from the Appeals Committee.

Q. From the Appeals Committee?

A. Yes, sir.

Q. And how would the second arbitrator be appointed?

A. By the Company.

Q. And then the third member would be appointed how?

A. By the two elected and selected; the third man.

Q. During the time that you have been on this Board, has there ever been an occasion where it became necessary to appeal to either the President of the Company or to a Board of Arbitration?

A. No, sir.

Q. So that all matters have been adjusted within the machinery of the Employees Representative Plan that you have detailed—

A. Yes, sir.

Q. —during that period?

A. Yes, sir.

Q. Mr. Mondora, do you remember hearing of a Supreme Court decision about April 12th of this year placing a construction on the National Labor Relations Act?

A. Yes, sir.

Q. What is your understanding as to what that decision did?

A. Threw out the representation plan throughout the plant.

Q. Now, right after this decision was handed down, you may state what, if any, communication was given to you, to your Committee by the Company or anyone representing the Company.

A. Why, our Chairman of our General Committee had called a special meeting, and he had told us then that this plan was out, being that the Wagner Act was constitutional, and it threw our plan out. He advised us.

Q. Then in connection with his conversation, was there anything said as to the Company participation or otherwise in it?

A. Yes, sir, they had told us—the Chairman had told us that the Company would not donate any funds towards our plan.

Q. Now, prior to this time had you as a Company representative received pay from the Company for the time

that you devoted to the duties of the Company Representative Plan?

A. Yes, sir.

Q. Will you just state how that was taken care of?

A. We was paid by the Company at an hourly rate that we received on our jobs.

Q. That is, if you spent some time on your duties as a representative under this plan?

A. Yes.

Q. You would receive the same hourly wage while you were so engaged that you would while you were working at your job?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. Now, also as to the expenses and these forms and things of that sort, and printing of any amended constitution and by-laws, how was that expense taken care of prior to this decision?

A. What decision was that?

Q. This decision as to the Wagner Labor Act.

A. By the Company.

Q. Did the Company pay for that before this time?

A. The Company paid for all stationeries and different things before the Wagner Act.

Q. That is what I mean.

A. Yes, sir.

Q. Now, did the Wagner Act—by the Wagner Act you refer to the decision of the Supreme Court that you have just mentioned when you refer to that?

A. Yes, sir.

Q. Don't you?

A. Yes, sir.

Q. Now, during the time, Mr. Mondora, that you were acting as an employee's representative under this plan, I wish you would tell the Court whether or not any officers,

superintendents, foremen, or other persons representing the Republic Steel Corporation at any time attempted to dominate or interfere with you in the duties that you were performing as such representative.

MR. LAUTER: I object on the ground that it calls for a conclusion of the witness.

JUDGE SMITH: Well, your Honor, this is a conclusion—

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May I suggest the reason why I think it is competent?

TRIAL EXAMINER LINDSAY: The question is entirely leading and calls for a conclusion. Objection sustained. Let the record show an exception.

JUDGE SMITH: Exception.

TRIAL EXAMINER LINDSAY: Proceed.

Q. Was there any interference with you in the performance of your duties during the time you were there?

MR. LAUTER: I object on the same ground as to the previous question.

JUDGE SMITH: Your Honor, this man certainly knows, and he is the only person who can know whether anybody in any way attempted to interfere with his duties. Now it is alleged in this complaint that this Company, that the Company dominated them, and this was a Company Union, and dominated by the Company.

MR. LAUTER: The testimony of this witness supports the allegation, but the mere fact that he supported the Company Union, and the fact whether they did or did not financially support this Employees Representative Plan calls for a conclusion as to whether or not they were in any way dominated or coerced. That is something for the Labor Board to decide, not this witness.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

JUDGE SMITH: Exception.

(Discussion off the record.)

JUDGE SMITH: Well, your Honor, may I make an offer to prove as to what this witness would say if he was permitted to answer?

TRIAL EXAMINER LINDSAY: I don't think an offer to prove is proper here.

JUDGE SMITH: Your Honor, it may be that I am dumb but I cannot understand how, if there is anybody but the man that is in that position that can really state as to whether or not there was any interference with, or attempt to dominate him. Now we have an allegation of that kind here. Now certainly this man is in the best position, if anyone, to state whether or not there was any attempt on the part of the Company, or anybody representing it, to in any way interfere in the performance of his duty. Now that certainly is not a conclusion; it is a statement of the fact that nobody but this man could know.

MR. LAUTER: It seems to me entirely proper for this witness to state what he did, and state what the officers of the Company did, but not for him to state what his conclusion was that the Company did or did not dominate, or that he was not influenced.

JUDGE SMITH: I didn't ask as to the Plan—

TRIAL EXAMINER LINDSAY: You may ask him as to what happened.

MR. LAUTER: Let me understand—

TRIAL EXAMINER LINDSAY: You may ask him as to what was done, what he did, what others did. Leave the conclusions out. Proceed.

Q. In the performance of your duties, Mr. Mondora, tell us just what you did.

MR. LAUTER: Speaking of the performance of his duties in connection with the operation of the Plan or his duties in connection with his job at the plant?

JUDGE SMITH: Well now, that is not clear but I will make it clear, Mr. Lauter.

Q. In the performance of your duties as a representative elected by the Employees of the Republic Steel Corporation under the Employees Representative Plan, Mr. Mondora, just state how you performed your duties?

A. You mean the different cases?

Q. Yes, Your duties?

A. The grievances?

Q. All of your duties.

A. I took all grievances that the men had brought up to me—they would bring to me cases and I would take them through the proper channel.

MR. LAUTER: I move that the comment of the witness as to the quotation "proper channel" be stricken from the record.

TRIAL EXAMINER LINDSAY: The word "proper" is stricken out.

Q. Well now, what channels do you refer to?

A. Just as I—written forms and through the superintendent of the department.

Q. And in accordance with what you testified before?

A. Yes, sir.

Q. In the performance of your duties in connection with these claims, did you consult with anybody else as to how you should perform in connection with it?

A. No, sir.

Q. Did you use your own judgment as to what should be done?

A. Yes, sir.

Q. Were you in any way influenced in the performance of your duty by anyone else other than yourself?

MR. LAUTER: I renew my motion on the grounds stated in the previous question concerning whether

this witness was influenced by any officer of the Company.

TRIAL EXAMINER LINDSAY: I will sustain the objection. Let the record show an exception.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes.

Q. You may state whether or not in the performance of your duties if you consulted only yourself, and your conscience, and your own conclusions as to what you should do.

A. Yes, sir.

Q. Now, Mr. Mondora, after the chairman had advised you, as you have testified, that the Company would not give any further financial aid to the Employees' Representative Plan, what if any action was taken by the representatives that had been elected by the employees after that date?

A. Why, they took action in trying to form their own representation plan.

Q. That is, you mean separate and apart from the Company participation?

A. Yes, sir.

MR. LAUTER: Object to the question as leading, move the answer be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is a leading question, Mr. Smith.

MR. SMITH: It is a leading question, I agree with you both—.

TRIAL EXAMINER LINDSAY: It is very leading, objection sustained. The question is stricken.

JUDGE SMITH: May I have an exception to it?

TRIAL EXAMINER LINDSAY: Yes.

Q. (By Judge Smith) Just state what you did and what you know, and what other of the employee representatives did, after the withdrawal of the Company from this Plan?

MR. LAUTER: I object to that question, as to testimony in this record that the Company withdrew from the Plan.

JUDGE SMITH: Why, he already testified to it.

TRIAL EXAMINER LINDSAY: We will stop all argument.

MR. LAUTER: May we make an objection for the record?

TRIAL EXAMINER LINDSAY: Yes, you may. Read the question.

(Question repeated by the reporter)

MR. LAUTER: Object to the question as it contains a statement of a set of facts not testified to by this or any other witness.

TRIAL EXAMINER LINDSAY: I'll sustain the objection on the grounds that the question is improperly framed.

JUDGE SMITH: I'll try to reframe it.

TRIAL EXAMINER LINDSAY: And further for the reasons stated by Mr. Lauter, representing the Board.

Q. (By Judge Smith) After your chairman had stated to you that the Company, due to the Supreme Court decision, would withdraw from further financial aid to the Representative Plan, you may state what you did or what you know, of your own personal knowledge, that other representatives who were elected by the employees, did, subsequent to that time?

A. They tried to form their own organization, financed through the employees. We tried it and got to a point that there wasn't no funds, and we quit; I quit it as I wasn't going to use my time up representing anybody, so I dropped out.

Q. And did you take any part—, or state what, if any, part you have taken in connection with the Independent Federation of Republic Employees?

A. Why—.

Q. I'll ask you; do you belong to that organization?

A. No, sir.

MR. LAUTER: May we have the previous question and answer withdrawn?

JUDGE SMITH: I'll withdraw the other answer.

TRIAL EXAMINER LINDSAY: Not only the other answer but the other question also.

JUDGE SMITH: The other question also. What is the question that is out, and the last that is in, and what is out?

(The record was referred to by the reporter.)

JUDGE SMITH: Have the record show that I withdrew that last question.

Q. (By Judge Smtih) Were you present at the meeting on May 19th at the District Office when Mr. John L. Smith was elected as chairman of the Independent Federation?

A. No, sir.

Q. Do you recall of a petition being circulated in the plant prior to the strike, addressed to the Mayor of Youngstown?

A. Yes, sir.

Q. Did you sign that petition?

A. Yes, sir.

Q. Did you have anything to do with circulating it?

A. No, sir.

Q. After the strike was called, are you familiar with the so-called "Back to Work" movement that has been referred to?

A. No, sir.

Q. Did you have anything to do with it?

A. No, sir.

Q. You may state whether or not you signed a petition to go back to work?

A. No, sir, I didn't sign any.

JUDGE SMITH: By the way, my attention has just been called by Mr. Jones that in connection with Mr. Mondora's testimony, that he made the statement of signing the ballots. Now I want to clear that up and see whether or not he meant that.

Q. (By Judge Smith) At the voting, when you voted either on nominations or elections, the ballots were not signed, were they, or were they or were they not?

A. No, sir, they weren't signed.

Q. And then if that statement was made by you in answer to a question, it was made in error, is that correct?

A. That is right.

JUDGE SMITH: There has been another thing that my attention has been called to; I would like to have the record read back to the question immediately before the one where I asked him if he belonged to the Independent Federation of Republic Employees, to see whether or not the record is clear that that was the organization I was directing his attention to, when he said he did not belong.

(The record was referred to and the following questions and answers repeated by the reporter:

"After your chairman had stated to you that the Company, due to the Supreme Court decision, would withdraw further financial aid to the Representative Plan, you may state what you did, or what you know of your own personal knowledge that other representatives who were elected by the employees did, subsequent to that time?

A. They tried to form their own organization, financed through the employees. We tried it and got to a point that there wasn't any funds, and we quit; I quit it as I wasn't going to use my time up representing anybody, so I dropped out.

Q. And did you take any part—, or state what if any part you have taken in connection with the Inde-

pendent Federation of Republic Employees?

A. Why—

Q. I'll ask you; do you belong to that organization?

A. No, sir.")

Q. (By Judge Smith) Where you say you didn't belong to that organization, you referred to the Independent Federation of Republic Employees, don't you?

A. That's right.

JUDGE SMITH: That is all.

Cross Examination

Q. (By Mr. Hoskins) What is your job at the mill, Mr. Mondora?

A. Superintendent Clerk at the butt and lap, Furnace Department.

Q. What are the duties of a Superintendent Clerk, are your duties as a Superintendent Clerk?

A. My duties in the butt and lap Furnace Department, I have charge of the whole department in clerical work, and ordering of all different items, different reports, all clerical work of that department; that is, the furnace department.

Q. Do you act as an assistant to the Superintendent?

A. No, sir.

Q. Now you stated that you were elected a representative in 1933?

A. Yes, sir.

Q. And when were you elected again?

A. 1934.

Q. And again in '35?

A. That is right.

Q. And again in '36?

A. That's right.

Q. Now you were elected a representative at the time you were a superintendent clerk, is that right?

A. No, sir.

Q. Didn't you state that you had been a superintendent's clerk for one and a half years?

A. That's right.

Q. Was your previous answer 'no sir?'

JUDGE SMITH: Well, he thought he referred to the original election.

TRIAL EXAMINER LINDSAY: Now wait a minute, Mr. Smith. This is cross examination. How do you know what he thought?

JUDGE SMITH: It is so obvious.

TRIAL EXAMINER LINDSAY: Maybe it is and maybe it isn't; proceed with the cross examination.

Q. (By Mr. Hoskins) When you were elected a representative in '36, were you at that time superintendent's clerk?

A. No, sir.

Q. When did you become superintendent's clerk?

A. About—, right after election,—; at the finish of 1938, that was in June.

Q. Now when did you become superintendent's clerk?

A. Right after then, right after the election.

Q. What do you mean by 'right after,' a month, two months, three months?

A. Well, I can't tell you the date right offhand.

Q. Can you give me some idea; was it one month or six months?

A. Well, about four months after that.

Q. In other words, it was around October, is that correct?

A. That is correct.

Q. That was in 1936?

A. That is right.

Q. And this is September, 1937, is that correct?

A. That is right.

Q. Then you haven't been a superintendent's clerk for one and a half years?

A. I says 'about one and a half years.'

Q. Now you were working in the mill at the time the employees Representation Plan started, is that not correct?

A. That is correct.

Q. Was that plan presented to the men, were they allowed to vote on it to determine whether they wanted to accept it or not?

A. No, sir.

Q. Did the men have any opportunity to express themselves in that?

A. Between election, about ten days before the election.

Q. What do you mean, about ten days before the election?

A. Well, the election was held around June 15th and this committee had been formed to put this Plan out amongst the men about ten days before that, prior to the election.

Q. But the men had no opportunity to state whether or not they wanted membership in the Plan, is that not right?

A. That is right.

Q. The mere fact that the work in the mill was the same—, they had their membership by working in the mill?

A. That's right.

Q. Now when was the last meeting that you attended as a representative of this Plan?

A. The last meeting that I attended was the one that our chairman—, at this special meeting that our chairman had called to discontinue the Plan.

Q. When was that?

A. That was around, I imagine, after the 15th somewhere, about two days after the constitution, under the Wagner Act.

Q. That would be the 15th of April?
A. That is right.
Q. That was the last meeting you attended?
A. Around that time.
Q. Did you do any work as a representative after that?
A. No, sir.
Q. You handled no grievances?
A. No, sir.
Q. Did any of the men come to you to have their grievances handled?
A. Yes, sir.
Q. What did you do, just turn them down?
A. Just turned them down, told them there isn't no such thing.
Q. Who was it told you that the company would no longer donate funds? That was the chairman?
A. The chairman of our committee.
Q. What is his name?
A. Mart Murphy.
Q. That meeting was held on the 15th of April, about?
A. About that.
Q. Where was that held?
A. General office.
Q. And what time of the day?
A. Around 9 o'clock.
Q. In the morning or evening?
A. Morning.
Q. What was your turn, on that day?
A. Day turn.
Q. You were on day turn?
A. Yes, sir.
Q. Did you get paid for the time you spent at that meeting?
A. No, sir. I didn't get paid.
Q. You got docked for that time?

A. Yes, sir.

Q. From your next pay check? Are you sure of that?

A. The last meeting?

Q. The meeting on April 15th, at which Chairman Martin Murphy told you the company would no longer donate funds?

A. Yes, sir, I didn't get paid for that.

Q. You left your work to go to that meeting, is that correct?

A. Yes, sir, that is correct.

Q. How long did that meeting last?

A. Why, we stayed there until noon, went out for lunch and come back at 1 o'clock. Some of us didn't get back until 1:30.

Q. What time did you get back to your job?

A. Didn't go back to my job.

Q. How long did you work in the morning before you went to the meeting?

A. Two hours.

Q. You worked two hours, and you are willing to state under oath that you were only paid for two hours' work on that day?

A. Yes, sir.

Q. Now, these joint committees you have told about, how many men were on those joint committees?

A. Five on the standing committees.

Q. I ask you about the joint committee.

A. Joint? There was ten.

Q. Ten men?

A. That is right.

Q. How was that composed? How many employee representatives?

A. Five.

Q. And five management representatives?

A. Five management.

Q. Is that correct?

A. That is correct?

Q. What happened to a cause that was presented to the joint committee and came out in a tie vote?

A. They would argue the case out after the first vote was taken.

Q. And if the second vote was also a tie?

A. Tie? It was—within three days I—if it was my case I had a chance to appeal it to the No. 4 committee.

Q. Did you keep any record or do you have any idea how many cases presented to this joint committee came out in a tie?

A. No, sir.

Q. You don't have any idea?

A. Not now, I don't know.

Q. You know, as a matter of fact, that the majority of the cases or grievances that were presented for the men did come out in a tie vote, don't you?

A. Yes, sir.

Q. Now, this general body, when was the last regular meeting they held, that you attended?

A. That was at the main office.

Q. When?

A. Around April 15th.

Q. Is that before or after this special meeting at which Chairman Mart Murphy spoke?

A. That was the same day.

Q. Same day?

A. Yes, sir.

Q. What time of the day was it?

A. 9 o'clock.

Q. You did not attend it, then?

A. Yes, sir.

Q. How did you attend both meetings?

A. Well, this is the same meeting. That is the last meeting.

Q. Didn't you state that this meeting wherein Mart

Murphy spoke was a special meeting?

A. Well, that is the one I am talking about now.

Q. Well, I asked you when the last regular meeting of the general body was?

A. That was in the end of the month.

Q. The end of what month?

A. We always—the general body meeting would meet on the 30th of each month, the end of each month.

Q. All right, now, when was the last meeting of the general body which you attended?

A. March 30th.

Q. You held no regular meeting of the general body in April?

A. In April?

Q. Yes.

A. Just this special meeting.

Q. No regular meeting?

A. No, sir.

Q. Now, you spoke of grievances being presented to this general body and their being voted on? Well, first of all I want to ask you one question on the composition about this general body. How was it composed?

A. The general body?

Q. Yes.

A. By all of the representatives, 31 representatives.

Q. Any management representatives?

A. No, sir.

Q. Did this general body have power to do anything?

A. Yes, sir.

Q. To do what?

A. They had power to take their cases to the president of the company.

Q. But the general body had no power to correct any grievance, did it?

A. No, sir.

Q. They had no power to raise wages?

A. No, sir.

Q. No power to improve any particular condition in the plant? They had no power to really adjust any grievance, did they?

A. No, sir.

Q. Now, the standing committees, did they have any power?

A. Yes, sir.

Q. What power did they have?

A. To a certain extent, they had power to bring up different grievances, to hand them out to the management of the company, to have adjusted.

Q. But they had no power to adjust them, themselves?

A. No, sir.

Q. Is that correct? All they could do was to transfer it to the management representatives?

A. That is right.

Q. And then only some of the grievances?

A. That is right.

Q. Now, were minutes taken of the meetings of the general body?

A. Yes, sir.

Q. Who took those?

A. The secretary.

Q. The secretary of the general body?

A. Yes, sir.

Q. Was there anybody else in those meetings taking minutes?

A. No, sir.

Q. And you were furnished with copies of those minutes? As a representative?

A. Yes, sir.

Q. When was the last time you received any minutes?

A. The last time I received minutes of the general body, do you mean?

Q. Yes.

A. It was a meeting of March 30th that we had, was the last.

Q. When did you get those?

A. Oh, I couldn't tell you the exact date.

Q. Well, generally speaking, how long after the meeting did you get copies of the minutes?

A. Why, about three or four days.

Q. Were copies of this special meeting of April 15th, furnished you?

A. No, sir.

Q. You didn't get any copies of those?

A. No, sir.

Q. Do you know who paid for those minutes that you got?

A. The company.

Q. Now, you stated on direct examination, I believe, that the grievance went up, concerning wages, that when it was adjusted the company always made that retroactive and gave back wages?

A. That is right.

Q. Did they do that in every case?

A. Yes, sir, in every case that was written out in written form.

Q. Every case that was adjusted?

A. That is right.

Q. How many cases did you have adjusted on wages during the last year?

A. During the last year?

Q. Yes.

A. Why, I had one paid out, last year. I didn't have any adjusted then but—

Q. You had none adjusted?

A. No.

Q. How many did you present?

A. What do you mean? In one year?

Q. During the last year?

A. Well, I can't tell you that. I don't know.

Q. Well, about? What is your approximation?

A. Well, I should say about—different cases—I should say sixty, fifty.

Q. You personally presented fifty or sixty cases?

A. Yes, sir. Not written forms.

Q. Well, I am not interested in whether you put it in written form or not?

A. All right.

Q. I am asking you whether you presented them.

A. Yes, sir.

Q. And you had none adjusted?

A. None adjusted? Sure, I had them adjusted.

Q. Did you present any case for wage increase, and have them adjusted, last year?

A. No, not in 1937.

Q. I am limiting my question at the present time to the year 1936-37, which is your last term of office.

A. All right.

Q. Now, how many cases did you present for wage grievance during that year?

A. None.

Q. You presented none?

A. That is right.

Q. How many did you present during the preceding year?

A. I was involved—

MR. SMITH: I didn't hear the answer.

(The answer read by the Reporter.)

Q. (By Mr. Hoskins) Finish your answer.

A. I was involved in, I think it was three.

Q. How many of those were adjusted?

A. Three of them.

Q. All, with back wages?

A. Yes, sir.

Q. I believe you stated that the by-laws and the rules

provide that if a grievance is taken to the general body—I think I have this procedure correct—then to the standing committee, and the joint committee, and still there is no adjustment, you have a right to go to the president?

A. Yes, sir.

Q. Is that correct?

A. File with the president.

Q. I further—I think you stated that you never went to the president with a grievance?

A. That is right.

Q. Do you know of any representative who did?

A. No, sir.

Q. Were all grievances adjusted satisfactorily?

A. Yes, sir.

Q. By the time they finished the committees?

A. Yes, sir.

Q. There were no grievances that you really cared to carry forward, is that correct?

A. Forward to where?

Q. To the president.

A. That is, they was adjusted. I didn't have to take them that far.

Q. You got every one of your grievances adjusted in the committee?

A. Yes, sir. That I had filed.

Q. Now, isn't it true, as a matter of fact, that a grievance, to be carried from the president to this arbitration board or arbitration committee, whichever you call it, could only be done with the consent of the president?

MR. HOSKINS: May I see these by-laws?

MR. SMITH: I would say on this, your Honor, that the real evidence on the matter, the exhibit is in evidence, of the plan, and as to what the plan says, is the best evidence as to how this arbitration matter is set-up.

TRIAL EXAMINER LINDSAY: Oh, he has a

right to produce that exhibit, if it is in evidence, and question him about it. There is no doubt about your theory that it is the best evidence.

MR. SMITH: Yes. So that it would be just what his interpretation or understanding of it was.

Q. (By Mr. Hoskins) Mr. Mondora, I refer you to a booklet which has previously been marked as Respondent's Exhibit for identification No. 34, a copy of which I believe was in evidence as Board's Exhibit, previously. Noting section 9, subdivision 3, I ask you if that procedure was changed?

A. No, sir.

Q. Doesn't that state that "if the president shall so agree?"

MR. SMITH: Which book is that? What year is that you are showing the witness?

MR. HOSKINS: This is your exhibit for identification. 34.

MR. SMITH: Well, that is '33, the first one, is it?

MR. HOSKINS: I am asking him if that was changed.

A. No, sir, that wasn't changed.

Q. That was still in effect at the present time?

A. Yes, sir.

Q. To the best of your knowledge?

A. Yes, sir.

MR. HOSKINS: Will you mark this booklet for identification?

(The booklet above referred to was marked as Board's Exhibit No. 115 for identification.)

Q. Mr. Mondora, I show you Board's Exhibit for identification No. 115 and ask you to describe that pamphlet (handing a booklet to the witness)?

A. That is the first plan that we have had.

Q. That is the first plan, you say?

A. Yes.

Q. This states that it was amended in March, 1937?

A. That is the first plan we have had. June 9th, 1933, adopted.

Q. Does this not say that it is a true copy of the by-laws of the Employees Representation Plan in effect in March, 1937?

A. I can't tell you that; I don't know that.

Q. Well, are these the by-laws that covered the Committee—

A. Yes.

Q. —in March, 1937?

A. I don't know.

Q. Covered the plan?

A. I don't know; I can't tell you. There is different copies.

Q. Well, this exhibit states Republic Steel Corporation, Youngstown District, Plan of Employees Representation, adopted June, 1933; amended June, 1934; amended March, 1937. Have you ever seen a copy of that before?

A. Yes, sir, if it is the last book that we was handed in 1937.

Q. Well, is that a copy like the last one you were handed?

A. I can't tell you.

JUDGE SMITH: I am willing for the record to show that it is; if you want it to be that way.

MR. HOSKINS: Since Judge Smith stipulates that this is a copy of the by-laws of the Employees Representation Plan as amended in March, 1937, I would like to offer it in evidence.

JUDGE SMITH: No objection.

TRIAL EXAMINER LINDSAY: Board's Exhibit 115 is received in evidence.

(Thereupon the document heretofore marked

"Board's Exhibit 115" was received in evidence.)

TRIAL EXAMINER LINDSAY: It is now 10 minutes after 12. We will adjourn until 1:15.

(Thereupon, a recess was taken until 1:15 o'clock p. m.)

After Recess.

(Whereupon the hearing was resumed, pursuant to recess, at 1:15 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

RALPH MONDORA

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross Examination (Continued)

Q. (By Mr. Hoskins) Mr. Mondora, one or two more questions, please. As a representative—at least up until the latter part of this year you were to continue for the time being as a representative?

A. Yes, sir.

Q. Now, were you paid by a separate check or was that included in your pay check?

A. Separate check.

Q. Do you recall when your last check was received by you? When was that for representative work?

A. Why, the pay for the last general meeting we had, around April 15th.

Q. Now, you stated, I believe, that it was your understanding that the Supreme Court decision threw out the Representative Plan.

A. Yes, sir.

Q. Were any steps ever taken to formally dissolve the Employees Representative Plan?

A. Before the Wagner—

Q. No. After the Wagner Act was declared constitutional by the Supreme Court?

A. Why, at that general body meeting it was automatically—it was thrown out by the Chairman.

Q. You say it was thrown out by the Chairman. Isn't it true that all of the members in the plant were members of this Employees Representation Plan?

A. Yes, sir.

Q. And it was never presented to them for a formal vote to be dissolved?

A. No, sir.

Q. It was never presented to the representative for a formal vote?

A. No, sir.

Q. In other words, one man took the responsibility for it to be thrown out? The Chairman?

A. Yes, sir.

Q. Of course, that wasn't a formal action on his part representing the entire group?

A. No. Why, it was disbanded by all of us representatives at that meeting. The Chairman told us it was through.

Q. But it was no formal vote to dissolve it?

A. No, sir.

Q. No formal action of any sort?

A. No, sir.

TRIAL EXAMINER LINDSAY: Will you read the last two or three questions and answers?

(The last three questions and answers were read.)

Q. Now, you stated that after this meeting of April 15th that there were some steps taken by the representatives to try to form a new Union?

A. Yes, sir.

Q. Did that Union ever get a name?

A. Yes, sir.

Q. What was the name of it?

A. Employees Representative Plan of Republic Steel Corporation. I think that is right.

Q. Is that the new Union?

A. That is the new Union.

Q. What were your activities in that? What were your duties in connection with it?

A. I didn't do anything on it. No activities in it. All I was, was a member prior to the time we had dropped the plan. I just stood the same as the representatives.

Q. Did you do any work for the new Union after April 15th?

A. Yes, sir.

Q. What work did you do?

A. Why, I solicited members for the new Union.

Q. And you stated that you voluntarily gave that up?

A. After that came to a point that we didn't have any money to carry on.

Q. Did you have any money at all?

A. No, sir.

Q. At any time?

A. We did after we started our plan.

Q. Is that in the form of dues?

A. Yes, sir, that is right.

Q. Dues that were collected?

A. Yes, sir.

Q. You stated that you gave it up because you were not going to use up your time?

A. That is right.

Q. And you belonged to the Independent Federation of Republic Employees?

A. No, sir.

Q. Have you ever attended any of their meetings?

A. Yes, sir.

Q. When?

A. I attended two meetings.

Q. When were they held?

A. Why, one was held the last Monday, and one was prior to after they had elected a Chairman—a temporary Chairman. The first meeting they held I attended.

Q. You attended a meeting where they elected a temporary Chairman?

A. No.

Q. After?

A. Yes, sir.

Q. Where was that?

A. Up on Indianola Avenue.

Q. That was the meeting that was called for the purpose of combining the old Employees Representation Plan with the new Independent Federation of Republic Employees?

A. Yes, sir.

Q. You attended that meeting?

A. Yes, sir.

Q. And you also attended a meeting last Monday?

A. Yes, sir.

Q. Where was that?

A At the same place.

Q. At Indianola Avenue?

A. Yes, sir.

Q. And you stated that prior to April 15th the Republic Steel Corporation paid all of the expenses of the Employees Representation Plan, is that correct?

A. Yes, sir.

Q. That includes printing of the minutes, printing of the by-laws, ballots, nomination forms that have been introduced in evidence?

A. Yes, sir.

Q. As well as paying for the men who attended the meetings?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

MR. HOSKINS: That is all.

Redirect Examination

Q. (By Judge Smith) I refer you to Respondent's Exhibit 29 that is headed "Election Ballot for Employee Representatives." I will ask you to read the first paragraph of that exhibit out loud.

A. "By using this ballot the voter approves the holding of nominations and elections as stated in the posted notice of this election issued by the Employees Committee under the plan of Employee Representation at this plant and expresses the desire to be represented for collective bargaining and the other purposes stated in the notice, by representatives elected under the plan."

Q. Now, all votes that were cast at any of these elections were cast on ballots similar to this, is that correct?

A. That is right.

Q. Now, Mr. Mondora, in connection with your services and your duties in the Employees Representative Plan, I wish you would tell the Court about what percentage, if you can, of the complaints that you took up were carried to a Joint Committee meeting and were not adjusted prior to their reaching there?

A. You mean in any one year?

Q. Yes. In any one year.

A. The full time?

Q. At any time in the year or in the last year. I will put it the last year.

A. Why, the last year I had one case; one case that I had brought up to a Joint Committee that was to be filed to a Joint Committee as a hearing.

Q. How many cases altogether did you have that were adjusted prior to reaching that point?

A. I couldn't name the number of different griev-

ances and cases that we had that had been given to that Committee.

Q. Can you give us your approximate judgment as to how many altogether you had during that period?

A. Oh, I would say about 40 to 50 cases.

Q. About 40 to 50 cases?

A. Yes, sir.

Q. In that year?

A. Yes, sir.

Q. The last year?

A. Yes, sir.

Q. Out of the entire group that was the only one that was not adjusted before you got to the Joint Committee?

A. That is right.

Q. Now you spoke of attending a meeting at Indianola—at a church on Indianola Street in Youngstown?

A. That is right.

Q. Do you remember the exact date of that meeting?

A. Yes, sir, this last meeting?

Q. No. The first meeting you attended on Indianola?

A. No, I don't know.

Q. Well, by reference, was it before or after the men had gone back to work?

A. Before.

Q. Before the men went back to work?

A. Now, wait a minute—no, this was after the men had gone back to work.

Q. Yes.

A. Yes, sir.

Q. Can you give us an idea about how long after that?

A. About three weeks afterward; after the men had gone back to work.

Q. What, if anything, do you remember in regard to that meeting as to what anything was said or done in connection with the constitution or by-laws?

A. Why, this plan that we had started—put it in our-

selves—the Employees Representation Plan we had donated these members to this new organization, and we had dropped it out of the picture—we discontinued our plan but was willing to reunite our members with theirs and leave us out of it.

Q. You mean that you resigned from any relationship with it?

A. Yes, sir.

Q. The question was, do you remember anything at that meeting being done in regard to a constitution and by-laws after the Federated Employees of the Republic?

A. Why, at that meeting there was—the men that were elected as temporary Chairmen and officers were to be as just until the further time that they would have money to support and re-elect officers for the—

JUDGE SMITH: I think that is all.

Recross Examination

Q. (By Mr. Hoskins) Just one or two more questions. You stated just a minute ago that you donated your members to this new Union, is that correct?

A. We was willing to donate them to this new organization; hand them over to them.

Q. Did you actually donate them?

A. As far as I know, I don't know yet if they have.

Q. Was any vote ever put to the members to determine whether or not they were willing to be donated?

A. At this meeting?

Q. Yes.

A. Yes.

Q. Did all of the members of your old plan attend?

A. The majority of them did.

Q. Did they express a willingness to be donated?

A. Yes, sir.

Q. Now, you stated you resigned from this organization.

A. Yes, sir.

Q. Did you tender a formal resignation at this meeting?

A. When we resigned at this meeting we had resigned right there and then.

Q. Whom do you mean by "we?"

A. Why, the representatives that attended this meeting.

Q. All of the representatives resigned?

A. Yes, sir.

Q. Did you submit written resignations?

A. No, sir.

Q. You just left the meeting?

A. That is right.

Q. Now, to just clear up one point, Mr. Mondora. These members that you stated attended the meeting over on Indianola Avenue that were to be handed over on this donation—they were members of which organization, now?

A. Why, they was members there of the new Representation Plan and there was members of this Independent Federation.

Q. The members you spoke of who were to be donated were the members of the Representation Plan?

A. The new Representation Plan.

Q. You are referring to the one that the representatives tried to form after May 15th?

A. That is correct.

Q. How large a membership did you have in that plan?

A. In which Plan do you mean?

Q. In the new Representation Plan.

A. Employees' Representation? Well, the last I heard was around twenty-seven hundred.

Q. How many people were at this Indianola meeting?

A. I would say around twenty-five to thirty.

Q. Twenty-five to thirty people present at the meeting?

A. That's right.

Q. I thought I understood you to say that a large part of the membership of this Plan was present there?

A. Yes, sir.

Q. You had twenty-seven hundred members in the Plan, is that correct?

A. In the Plan, yes.

Q. And there are twenty-five to thirty people present at the Indianola meeting?

A. This was all the officers of this Employees' Representation that was present there.

Q. But there were no members present?

A. No, no members.

Q. Had the question ever been put to the members, and whether they wanted to become affiliated with this Independent Federation?

A. No, sir.

Q. Whether they wanted to be donated?

A. No, sir.

Q. That was an action that the officers were taking without the consent in any way of the members, is that correct?

A. That is correct.

Q. Now the officers of the new Representation Plan, as distinguished from the old, were they ever elected?

A. No, sir.

Q. Or just assumed—, the representatives who had been elected under the old plan just assumed the offices under the new, is that correct?

A. That is right.

MR. HOSKINS: That is all.

Redirect Examination

Q. (By Judge Smith) Well, to clear the record, we don't confuse you, the new Employees' Representative Plan that you refer to was the organization that you attempted to form prior to the time of the strike and was not the Independent Federation of Republic Employees, was it?

A. No, sir.

JUDGE SMITH: That is all, that is all, Mr. Mondora.

(Witness excused.)

WILLIAM F. QUINLAN

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Judge Smith) Just state your full name, Mr. Quinlan?

A. William F. Quinlan.

Q. You reside in Youngstown?

A. Yes, sir, I do.

Q. How many years have you been a resident here?

A. About forty years.

Q. You are the Clerk of the Court of Common Pleas, I believe?

A. That is correct.

Q. Now as such Clerk, do you have one of your criminal dockets with you?

A. I do.

Q. I wish you would turn to Page 14665 and, what is the number and name of this docket?

A. This docket is criminal docket of the Mahoning County Common Pleas Court No. 29.

Q. Now referring to that page, I'll ask you if there is a record there in regard to one Walter Chizmas?

A. There is.

Q. And what does the record say as to whether or not he has been indicted for any offense?

TRIAL EXAMINER: Wait a minute.

MR. LAUTER: Object to it as to showing whether or not Mr. Chizmas was indicted; it is incompetent, irrelevant and immaterial.

JUDGE SMITH: I would like to state my reason for presenting this.

TRIAL EXAMINER LINDSAY: If it's an indictment, it's absolutely out.

(Off the record.)

JUDGE SMITH: May I just make this one further statement as to this, that the testimony that we desire leave to be presented, in accordance with the Court's ruling, in the written offer to prove, if we desire to present it?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: That is all, Mr. Quinlan.

(Witness excused.)

B. J. GILLEN

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your name?

A. Yes, sir, Barney J. Gillen.

Q. Where do you live?

A. Warren, Ohio.

Q. You occupy what position in Warren?

A. Chief of Police.

Q. How long have you been chief of police in Warren?

A. Oh, about 18 years.

Q. During the strike in Warren, were you on duty during that time?

A. Yes, sir.

Q. I will ask you to state whether or not, in connection with your duties, certain complaint were made to you about persons kept in Republic mill in Warren?

A. Yes, sir.

Q. About when was that, that those complaints were made to you, Mr. Gillen?

A. I couldn't exactly say the date; the time that the men was in there and not coming out.

Q. When was it in reference to the time the strike started?

A. Probably two or three weeks after that; a couple of weeks, probably.

MR. LAUTER: May I have the answer read?

(Answer read by the Reporter.)

Q. About how many such complaints were made to you, would you state?

A. Oh, I don't know, maybe ten or fifteen came to me.

Q. Were those complaints all made at the same time or over a period of time?

A. Different days, different times. Sometimes days, sometimes nights.

Q. Did you make any investigation of those complaints at all?

A. I made an investigation with the sheriff.

Q. I see; well, I mean when the complaints were

made, did you make investigation, or what did you do concerning them?

A. I sent the complainant over to the sheriff, because Trumbull Steel is outside of the city limits.

Q. Sometime later, I will ask you to state whether or not a committee was gotten together to investigate those complaints?

A. Yes, sir, there was.

Q. Who gathered that committee together?

A. The sheriff.

Q. The sheriff of—

A. Trumbull County.

Q. Trumbull County?

A. Mr. Hardman.

Q. Who else was on that committee?

A. Well, the Mayor Bjorson, City Law Director, and myself. That is, they asked me to go down.

Q. That is, the Mayor of the City of Warren?

A. Yes—and Safety Director.

Q. And you?

A. And the sheriff, four of us.

Q. That is, a committee which was composed of four?

A. Yes, sir.

Q. The sheriff was the one that got the committee together?

A. Yes, sir.

Q. Did this committee do something about investigating these complaints?

A. Yes. They went down there.

Q. About when was that, chief?

A. I couldn't exactly give you the date. The sheriff has got that. I just merely went along.

Q. Could you give me approximately the date?

A. Probably three weeks after the strike, after the strike happened. Probably. Maybe two or three, I don't

know. I didn't mark it down. I couldn't tell you that. I just merely went with these people.

Q. Did all four of you men go down to Republic together?

A. Yes, sir.

Q. When you got down there, whom did you see?

A. Mr. Flynn.

Q. Do you know what position Mr. Flynn occupies?

A. I guess he is the manager of the Trumbull Steel.

Q. Did one or more members of your committee have some conversation with Mr. Flynn at that time?

A. They had conversation there, right in front of all of us.

Q. Who did the talking for your committee?

A. The sheriff.

Q. What did the sheriff say?

A. He said they came down there on complaints that they had, they had about fifty complaints where people said that their folks was in the mill and couldn't get out. They were holding them against their own free will.

Q. What did Mr. Flynn then say, if anything?

A. Mr. Flynn said, "You know I would not do anything like that." He says, "I will tell you what you do, go down through the mill and then go over to Mr. Donovan's office and fetch them in, anybody you want to talk to."

Q. Subsequent to that, where did the committee go?

A. Went down through the mill and talked to different people.

Q. Now, just before you come to that, did anyone go with you or with the committee?

A. Yes, there was some fellow went, there. I don't know what his name was.

Q. How did he happen to go with the committee?

A. Why, Mr. Flynn said this man would take us down, any place we wanted to go.

Q. Now, how extensive was your walk through the mill before you came back to Mr. Donovan's office?

A. Well, we took quite a walk down through the mill, I don't know how far we were in, there, because I had never been all through the mill, yet, but we went down through where people were working, turned, went down the left side and then come up around into Mr. Donovan's office.

Q. Now, in your walk through the mill, did you personally talk with men or persons inside there?

A. Yes, sir, I talked with some men in there.

Q. What did you ask those persons that you talked to?

A. I asked them if they were getting enough to eat and if they wanted to go out and they said—

Q. What answer did you receive?

A. They said they didn't want to go out, they were getting all they wanted to eat.

Q. Did you see anyone there in the mill that you knew?

A. Oh, yes.

Q. Whom did you see whom you know?

A. I saw some Angstedt boys in there, talked to them.

Q. Who is that?

A. The Angstedt boys.

Q. Did you see any persons that were related to you?

A. Yes.

Q. Whom did you see?

A. Those were the Angstedts.

Q. They were relatives of yours?

A. Yes, sir, my sister's sons.

Q. Did you hear any of the remarks that were directed by any of the other members of the committee to persons working in the mill?

A. No, I didn't pay any attention to that, at all.

Q. Did any employee working in the mill tell you that they wanted to leave?

A. Not one. Any time that anybody called up from the mill that they wanted to leave, there was an officer went down and escorted them out. We never took anybody in, but we took them out.

Q. I see.

A. Yes, sir.

Q. Then after you walked through the mill, you came back to some office?

A. Went back to Mr. Donovan's office.

Q. Who was present there, the whole committee?

A. Mr. Donovan was there and the committee was there, yes, sir.

Q. Five altogether?

A. And the man that escorted us, down there.

Q. What was done after you arrived in Mr. Donovan's office?

A. The sheriff talked to Mr. Donovan and told him the complaint we had about women being in there and couldn't get out, men being in there and boys couldn't get out. He said he had a lot of complaints down there, he came in to investigate it. He says, "All right, you send out, give us the name of anybody you want to come in, here, and we'll fetch them in," which they did, fetched them in one at a time.

Q. The sheriff—Pardon me.

A. Fetched them in one at a time, sent a man out—the sheriff did all of the questions, the whole bunch that was there, they fetched in; we never found one in there that wanted to go out, men or women.

Q. About how many persons were brought into Mr. Donovan's office before the committee in question?

A. Well, I should think there was about 40. Of course, I couldn't just say that. The sheriff had all of the complaints on the paper. I didn't have them.

Q. Who did all of the questioning?

A. The sheriff did.

Q. In your presence?

A. Yes, sir. I sat right there and heard it.

Q. Were there women employees who were questioned as well as men?

A. Yes, sir, everybody we had their names, the sheriff fetched them in, and asked them.

Q. As they were brought in before the committee, how did they come? In a group or individually?

A. Individually, one at a time. They seemed perfectly satisfied.

MR. LAUTER: I move the comment of the witness be stricken, that they seemed to be satisfied.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

Q. (By Mr. Jones) Did any person that was brought into the office state that he or she desired to leave the mill?

A. Not one, no, sir.

Q. Did any person who was brought before the committee state in words or in substance that he or she was being retained in the mill against their will?

A. No, sir, not one.

Q. What, if anything, was said about the food that was being served in the mill?

A. We asked them—I asked my relations if they were getting all they wanted to eat and they said "Yes, sir."

Q. Was anything stated about sleeping accommodations?

A. Yes, sir.

Q. What was stated about that?

A. We talked to the men about the sleeping, they said they had good beds. Talked to the women about the same thing and they said that—one woman especially says, "Well, I have lived about 30 years, but I never got into a Pullman car before in my life, and I am sleeping in one

and I am going to stay here''—that is just exactly what she said in front of the committee.

Q. I will ask you to state if, in your presence, the sheriff made any statement to these persons about their right to leave the mill and his protection, if they desired to leave?

A. Yes, sir, he did.

Q. What, if anything, did he say in reference to that?

A. He told him who he was and what he was down there for, and that there was complaints—their folks made complaints, said they couldn't get out. He told them he was sheriff of Trumbull County, he didn't come down there to take them out, or take them in, but if they wanted to come out they had a perfect right to go out.

Q. About how much time was consumed by this committee in this investigation that was made?

A. Oh, we went down about 1 o'clock and we got away from there about half past 4:00.

Q. During that time were you continually occupied in this investigation matter?

A. No, we walked down through the mill, went back up to Mr. Donovan's office all that time.

Q. That is, in doing the things you have told us about?

A. Yes, sir. Yes, sir, absolutely.

Q. I will ask you to state, Chief, if, prior to this investigation or subsequent to this investigation, at any time a request was made of you or your department, by the company, that persons leave the mill?

A. Did we have request?

Q. Yes.

A. Yes, sir.

Q. Please state what was said on those occasions and what was done.

A. Well, they always called up and said, "We have a man wants to leave. Will you send down an officer?"

"Yes, sir." We never refused to take anybody out of the mill.

There was only one thing I refused to do, I said I would not take any cars out of the Trumbull Steel, because that was outside and we wasn't going to open up the gates at Trumbull Steel and have trouble, we would be blamed for it. I says, "Any man or woman wants to go out, we will take them out, go with them." The boys was instructed to that effect—the sergeant and the captain, to take anybody out at any time they wanted to go out, but nobody will ever say they were refused company to go out. Yes, sir.

Q. Now, on the other hand, Chief, what, if anything, was done about taking or assisting men to get into the mill?

A. Never took anybody in while the strike was on there until—

Q. What is that?

A. Not until after the Judge's decision come on—put the injunction on, we never took anybody in before, no sir.

Q. Is the Republic Steel plant itself in the city of Warren?

A. No, sir.

Q. Where is it with reference to the city limits?

A. Well, it is inside the city limits, but you go around—

Q. How is that?

A. It starts right at the—well, probably was within a mile of the city limits, goes clear past the Trumbull Steel, but steel is on one side and the road divides them.

Q. That is, the plant itself is outside of the city?

A. Yes, sir, on the right side. That is the west side of the street.

Q. I will ask you how about the building that is known as the main building or the administration building? Is that in the city?

A. Yes, sir. The office is inside of the city.

Q. I understand the boundary runs right between them?

A. Yes, sir, that is right.

Q. What street or streets are there, Chief, that runs from the downtown or the middle of Warren out to—or that you would take to get to the Republic Steel plant?

A. Pine Street, straight street from Market Street.

Q. Market Street is one of the main streets of the city?

A. Yes, sir, you go south on Pine Street right to Trumbull Steel, straight street.

Q. Now, during the course of the strike in Warren, did you have any occasion to go down Pine Street toward the Republic Steel plant?

A. Yes, sir.

Q. I will ask you to state whether or not in making such a trip you saw any pickets.

A. Well, I seen lots of pickets.

Q. How is that?

A. I seen lots of pickets.

Q. As you were going down Pine Street towards the Company's plant, where was it that you ordinarily, if it is true, met the first group of pickets?

A. Pine and Walnut.

Q. How far is that from the Company's plant?

A. Oh, about two blocks.

Q. State whether or not on the occasions that you were there or went down there, Pine Street, if there were approximately the same numbr of pickets at Pine and Walnut, or would the number vary?

A. It varied.

Q. I wish you would state within what limits, that is, what the greatest number of pickets were you ever saw there and what the least number of them were there.

A. Well, let me see; about a thousand there one

night. About 4:10 when a fellow got his car upset. It was about a thousand people there.

TRIAL EXAMINER LINDSAY: "Fellow got his car upset" is stricken from the record.

JUDGE SMITH: Exception to that ruling.

TRIAL EXAMINER LINDSAY: Read the answer.

(The last answer was read.)

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: "A fellow got his car upset" is stricken from the record as not responsive to the question.

JUDGE SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes, yor may have an exception.

Q. Is that, Chief, your answer, with respect to the greatest number of pickets you saw there at any one time at that intersection?

A. Yes, sir; that one corner.

Q. That one corner?

A. Yes, sir.

Q. Where were they located as you saw them with respect to the sidewalk and the street?

A. On the sidewalk and the street; both ways.

Q. I will ask you to state what was the condition in the street as when you observed it, or as you observed in going down Pine Street.

A. Well, there was a big crowd. I would call it a big crowd. I can't tell you how many.

Q. Was the street completely covered or not?

A. Yes, sir—not completely. No, you could walk down through there on both sidewalks. People on both sides of the sidewalk of the street clear up on Clinton Street; that is probably about four blocks.

MR. LAUTER: May we have the date fixed?

Q. How far is that?

MR. LAUTER: I would like the date fixed.

Q. About when was this, Chief?

A. Let me see. I think it was about the 2nd of May. I have it here, when the fellow got arrested—

TRIAL EXAMINER LINDSAY: Strike that out. You know better than that.

THE WITNESS: I know the date.

TRIAL EXAMINER LINDSAY: Strike that out.

MR. JONES: Exception.

THE WITNESS: I am getting the date.

TRIAL EXAMINER LINDSAY: You know better than to be offering those statements on this record.

THE WITNESS: The date—

TRIAL EXAMINER LINDSAY: Look for the date; that is all right.

THE WITNESS: The date?

TRIAL EXAMINER LINDSAY: Yes.

JUDGE SMITH: May we have an exception, if your Honor please?

TRIAL EXAMINER LINDSAY: Yes.

MR. LAUTER: For the sake of orderliness, I would like to know which counsel is conducting the examination of this witness. If exceptions are going to be taken, I assume they are going to be taken by the counsel who is conducting the hearing and not by the counsel who are sitting at the table.

TRIAL EXAMINER LINDSAY: Yes. It is highly improper. Let us understand each other. We are going to have some concrete order on this thing. Now if I tell a witness not to do a certain thing and he starts to talk back to me—(To the Witness) Now, you know what an oath means?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: And you know what you are on the witness stand for?

THE WITNESS: Yes, sir.

TRIAL EXAMINER LINDSAY: And you know you haven't any right to talk back to anyone handling the case?

THE WITNESS: Yes.

JUDGE SMITH: Now, may we have an exception on the statements made by the Court to the witness?

TRIAL EXAMINER LINDSAY: Well, I am conducting this hearing. You know yourself, Mr. Smith, that when a man is on the witness stand and is under oath and he is asked a question he is supposed to answer questions. He is not supposed to completely and constantly offer testimony which is not responsive to the question so as to get it into the record. Now if you want to ask those questions to bring out those types of answers, all right.

JUDGE SMITH: May we have a ruling on that?

TRIAL EXAMINER LINDSAY: Now you surely don't wish to have a statement in the record that you are supporting the witness doing that?

JUDGE SMITH: No; I want to state in the record—

TRIAL EXAMINER LINDSAY: You don't want to back up your witness?

JUDGE SMITH: I do not when the witness is doing it for any other purpose than that.

TRIAL EXAMINER LINDSAY: I will not allow it—

JUDGE SMITH: I would like to state in the record the reason why I would like an exception. This witness in connection with his testimony was referring to something about a date that he had been asked for, and the Court, it seemed to me, thought that he was

doing it merely for another purpose, and I don't believe the Court should have chastised him.

TRIAL EXAMINER LINDSAY: My theory is that he was not doing it for that purpose. He knows better.

MR. JONES: May we have the last question?

JUDGE SMITH: Before we go into that, I would like to make one other observation.

MR. LAUTER: I object to any—

TRIAL EXAMINER LINDSAY: One moment. There won't be any other observations. Let us try this question. Every time that a statement is asked here, three or four attorneys get up and make observations and reservations and objections and exceptions. We will never get this thing finished. Proceed.

JUDGE SMITH: Mr. Lauter was making statements instructing me—

TRIAL EXAMINER LINDSAY: Listen, Mr. Smith. Now I said proceed with your examination of this witness, and Mr. Jones is doing that. Now there is just such a thing as carrying a thing too far. Now I am constantly trying to get the defense in here to meet this issue and that is what I want. I haven't deprived you or any other attorney representing the Respondent Company any right. Now, proceed with this case. There is a way to handle a situation like this. Now, I just call your attention to one other thing that a Trial Examiner when he instructs a witness what to do, and I would like to know who is in charge of this witness if it is not the Trial Examiner and if it is not the Judge in the proceedings?

JUDGE SMITH: I would like to answer that—

TRIAL EXAMINER LINDSAY: I instructed the witness not to inject any answers into any questions, things that are not asked for.

JUDGE SMITH: Now, you have asked me a

question and I would like to answer it.

TRIAL EXAMINER LINDSAY: No, it is not necessary to be answered. I didn't ask it with that view in mind at all.

JUDGE SMITH: Well, it seems to me, your Honor—

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Now, Mr. Jones, you are conducting the examination of this witness. Proceed.

Q. Do you understand the question, Chief?

A. Yes, sir.

Q. What is your answer?

A. The 23rd day of June.

JUDGE SMITH: What was that answer?

(The last answer was read.)

Q. I will ask you, Chief, to please state about what the usual number of pickets were that you observed down on Pine Street in the vicinity of this intersection and Walnut.

A. When do you mean? After the injunction?

Q. Before the injunction and after the strike.

A. I can't tell you; it was a large crowd.

Q. Now, can you give us any approximation at all as to the number of pickets?

A. Probably a couple of thousand people.

Q. How is that?

A. About a couple of thousand.

Q. Now, did this condition exist south of this intersection?

A. Which intersection?

Q. Walnut and Pine.

A. Yes, sir.

Q. How long did that condition exist? How far down did that same condition exist?

A. Probably maybe a mile.

Q. And was that beyond the Company plant?

A. Yes, sir.

Q. About how many pickets did you observe at any time that were down at the entrance of the Republic Steel on Pine Street?

A. Oh, I couldn't tell you how many was there at the gate. I couldn't tell you that. I don't know. I didn't put any much time there.

Q. Were you down there many times?

A. Back and forth.

Q. Can you give us some idea about the number of pickets that were there?

A. I couldn't say that I ever seen over 50 there.

Q. That is, at the main gate?

A. Yes, sir.

Q. I will ask you to state whether or not from Walnut Street and Pine Street, down Pine Street, to the Company's plant and beyond, pickets were ordinarily there as you observed at certain points or scattered all over?

A. Scattered all over the street at the start.

Q. Did you observe anything in the vicinity of Walnut and Pine Streets besides pickets at any time that you went down there?

A. In the street?

Q. Yes.

A. I don't understand that.

Q. Was there anything in the street that you saw?

A. A barricade we put up ourselves.

Q. What was it composed of?

A. It was composed of two horses put up in there to keep the public and sight-seers out.

Q. Who directed traffic at that barricade?

A. The pickets directed for a while.

Q. For how long did the pickets direct traffic?

A. I couldn't say as to that.

Q. Well, beginning with the time of the strike, was it?

A. Yes, sir.

Q. That they directed traffic?

A. Yes, sir.

Q. And extending down for about how long after that?

A. Probably until that injunction was served.

Q. And do you have any idea as to when that was?

A. No, I do not.

Q. Could you tell me approximately whether it was a week or longer than a week, or longer than a month, or do you know, after the strike?

A. I won't say that, I don't know.

Q. In connection with the pickets directing traffic at the barricade at Walnut and Pine Streets, I'll ask you to state whether or not the officials of the CIO ever had a conversation with you about it?

A. Yes, sir.

Q. And who was that man?

A. Mr. Wines.

Q. What is his first name?

A. I can't tell you.

Q. Do you think you would know his first name if you heard it?

A. I don't know, I never heard it.

Q. Was he known to you as an official of the CIO?

A. Yes, sir.

Q. What conversation did he have with you?

A. Well, they said there was lot of people running through traffic and no arrests made on it, and I told him when the policeman is watching traffic there, when his men would get off the street and my men would work traffic, any man that went through traffic would be the same as going through traffic uptown.

Q. Did you have any conversation with him subsequent to that about that matter?

A. Oh, I can't say about that.

Q. Do you know whether or not there was a committee in charge of the strike in Warren?

A. Committee in charge of it?

Q. Yes.

A. Yes, sure.

Q. Do you know who composed that committee?

A. No, I don't. I know some of them but I don't know who they are.

Q. Do you know whether or not Mr. Wines was on that committee?

A. He was.

Q. Do you know how many composed that committee?

A. No, I do not.

Q. Do you know whether or not a man by the name of Hall, or Hallberg, was on that committee?

A. Yes, sir.

Q. Do you know what his first name was?

A. I do not.

Q. Do you know whether or not his first name was Gus?

A. I couldn't tell you.

Q. Would you be able to state, Chief, whether or not at some time that you know of this barricade at Pine and Walnut Streets was taken away?

A. Yes.

Q. About when was that?

A. Well, it hasn't been very long ago, I couldn't just say. When things got pretty well cleared up, we took the barricade away.

Q. Was it after the injunction was granted by the Court?

A. Yes, sir.

Q. Would you be able to state about how long after the injunction was granted?

A. No, sir, I would not.

Q. When the barricade was cleared away, what, if anything else, was found there?

MR. LAUTER: I object to the question as leading the witness.

MR. JONES: I'll withdraw the question.

Q. (By Mr. Jones) I'll ask you to state whether anything else was found there when the barricade was removed? Answer it 'yes' or 'no.'

A. Yes.

Q. What was it, Chief?

A. A box of bricks.

Q. What was the answer?

A. A box of bricks was there.

Q. Where was that?

A. In the middle of the street.

Q. And where with reference to the barricade?

A. Right where the barricade was, right between the two horses, the two horses crossed the street.

Q. And anything else?

A. No, sir.

Q. Did you at any time go around or make any observation at any other sides of the plant, other than the Pine Street side?

A. Yes, I went clear down Pine to Niles, and up the river side on the other side, then clear around the plant with the Sheriff.

Q. That would take you clear around the plant?

A. Yes, sir.

Q. When did you do that?

A. Why, when the strike was on, before the injunction was put on to it, probably the second week of the strike.

Q. About the second week of the strike?

A. Maybe the first. I wouldn't say, I didn't make any notation of that.

Q. When you made that trip, was it then that you saw the large crowd of pickets on Pine Street that you have told us about heretofore?

A. I made that trip before that.

Q. Before that?

A. Yes.

Q. Well, on the time that you made that trip with the Sheriff, I wish you would state what the number of pickets were that you observed on Pine Street, as you went down towards the plant and past the plant?

A. I couldn't tell you, I haven't got the least idea, it was a big crowd, but I have no idea how many were there.

Q. You wouldn't be able to give us any approximation?

A. No, sir, I don't know.

Q. I'll ask you if you can state as to this; as you go down Pine Street along the side of the plant, what side is that, according to the compass?

A. The south side.

Q. That is the south side?

A. South side of the city, yes, sir.

Q. Is that the south side of the plant, too?

A. No, the plant, the way it is faced, runs north and south.

Q. But as you go down Pine Street, are you going down the east side of the plant, then?

A. Yes, sir.

Q. Tell us what the condition was as to the number of pickets all along the east side of the plant as you took this trip?

A. There was pickets clear around the plant.

Q. You mean on all sides?

A. Yes, sir, clear around the plant.

Q. And state, if you will, as to the number of them at different places, as you remember them?

A. I couldn't tell you that, I can't tell you the number, it was a large crowd of them all around there, but I couldn't tell you exactly how many there was, I didn't count them at all.

Q. Did you make any observation in or about the Niles plant of the Republic Steel?

A. No, sir, I did not.

Q. During this particular trip that you have told us about when you went clear around the plant, did that happen on one occasion or more than one occasion?

A. One.

Q. Now I want to direct your attention to that particular time and ask you to state, if you will, please, what, if anything, you observed in the hands of the pickets as you made that trip?

A. Well, they all had baseball bats.

MR. LAUTER: Object to that question and move that the answer be stricken, as incompetent, irrelevant and immaterial, and outside of the scope of the issues in this case.

TRIAL EXAMINER LINDSAY: Yes, the objection is sustained and show an exception.

MR. LAUTER: Ruling on our motion to strike?

TRIAL EXAMINER LINDSAY: It may be stricken.

MR. JONES: I just want to ask you, in connection with the testimony of this witness, without pressing this matter further, if we might incorporate it in our written offer to prove?

TRIAL EXAMINER LINDSAY: Just how far are you going in this matter, after this order has been made by me in regard to this type of evidence? Is it your intention to pile a great number of witnesses

so as to make it accumulative and then incorporate it in your offer of proof?

MR. JONES: No, I wasn't speaking about other witnesses, Your Honor—.

TRIAL EXAMINER LINDSAY: I don't know how many we have had already. The ruling has been made and I definitely stated this morning that you have the right to make your offer of proof, which is a general one, covering all these facts. There has been no change on the matter; I definitely stated this morning that I thought you had enough witnesses along that type, that it became accumulative. I just want to know where this is going to on that particular matter.

MR. JONES: That is just what I want to ask your Honor, if we might include in our offer to prove additional questions that might be asked of this witness along that same line that I am asking.

TRIAL EXAMINER LINDSAY: If I say 'yes' you can go on and put on another one; it will take an hour and a half to get up to a certain point and then ask it, and then ask if you have the right to make the offer of proof on that. The principal thing of a hearing is to get after the material facts and the issues, as I stated repeatedly, and now the mere fact if it were conceded that X-Y-Z were carrying clubs, that still doesn't meet the issues in this complaint.

MR. JONES: I understand Your Honor's position.

TRIAL EXAMINER LINDSAY: And I am willing to go along and grant everything that is possible to grant, but I just don't know how far you are going with that type of testimony. Now I don't know how many witnesses you have had on this subject; do you know, Mr. Lauter, how many we have had?

MR. LAUTER: There were number of witnesses

testified as to the facts that there were pickets, carried clubs and had bricks and what-not; I think we have gone far enough to establish the record by this time. Apart from the accumulative facts, the fact that they are entirely into this on objection to this line of questioning.

JUDGE SMITH: May we explain—?

TRIAL EXAMINER LINDSAY: I understand that Mr. Jones is handling this witness. If I have to listen to five or six lawyers on each proposition that comes up, I think it is unreasonable; wait until Mr. Jones at least gets through. So far as this witness is concerned, you may show a general offer to prove, but now I don't think it is proper to constantly bring this issue up on a lot of testimony that pertains to nothing, and then expect me to grant all these favors. After all, this record is a thing that is based entirely upon facts and there isn't one supposition that will be considered, not one. It's either yes or no on this proposition, it's either a fact that is material to the issue and that is the whole proposition. Now I dislike very much to have to be so stern on this matter, but it looks to me that if advantage is taken of these things, it isn't pleasant to sit up here and 'wash your hand' of it, and I would like to see the case handled and the facts presented, the facts that are material to the issue, and you have certain well-defined principles to follow, as I stated this morning; and let us attempt to follow them. When a Court makes a ruling, it isn't necessary to constantly try to fight that ruling, you aren't going to make me change it.

MR. JONES: Could I say something, Your Honor?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: I have been most courteous, I

think, in my demeanor to the Court, I have tried to be; I simply asked the Court a question.

TRIAL EXAMINER LINDSAY: Yes, I realize. There isn't any question about that and there is nothing that can be considered as personal, it is just one thing that I have repeatedly said, that this type of testimony has been ruled out. I have granted privilege of making a general offer of proof covering all this.

MR. JONES: My question is: May this witness be included in that, that is all I want to know?

TRIAL EXAMINER LINDSAY: Yes, we have the understanding and I am telling you now that in addition to that, that I don't believe it is necessary to constantly call witnesses in order to get that question in your offer of proof. I thought I had a thorough understanding with counsel on the matter. Now we have been here since last Saturday and yet there hasn't been a word of testimony introduced, which is in contradiction to your discrimination cases named in the complaint.

TRIAL EXAMINER LINDSAY: There is one angle of the case. So far we haven't even touched it. That is my only reason for trying to drive home the situation as it really is.

MR. JONES: Of course, we are not through with our case yet, your Honor.

TRIAL EXAMINER LINDSAY: Well, I suggest you get busy and put on these witnesses. You have to meet the issues in the complaint.

MR. JONES: Well, I am sorry that this witness did not meet the issues as your Honor sees it, but I think that this evidence was very material, meeting the issue.

TRIAL EXAMINER LINDSAY: Regardless of what you think, I have ruled on it, haven't I? That is the principal thing.

MR. JONES: I am talking about the testimony of this witness, prior to the last.

TRIAL EXAMINER LINDSAY: Oh, yes, but you went through a great deal of testimony to get up to that. Now, it is perfectly all right to put on your witnesses, any witness you feel like putting on; any testimony that is material to this issue, that in any way is connected up with the issues in this complaint. And your discriminatory cases will be given all the consideration there is to be given. There is no argument on that, at all.

MR. JONES: I was simply trying to show this court as I thought a courtesy by—

TRIAL EXAMINER LINDSAY: Well, then, I think, as a matter of courtesy, you should leave those questions alone that you are going to put into your general offer of proof.

MR. JONES: By giving you the information ahead of time, if it were agreeable. If not, we can proceed some other way.

TRIAL EXAMINER LINDSAY: We have had at least eight or ten or more witnesses on that very thing.

MR. JONES: You may cross examine.

MR. SMITH: Do we have an exception, your Honor, to the ruling of the Court on that?

TRIAL EXAMINER LINDSAY: Yes, sir.

Cross Examination

Q. (By Mr. Lauter) Mr. Gillen, how do you spell your name?

A. G-i-l-l-e-n.

Q. And you are the chief of police of Warren?

A. Yes, sir.

Q. How long have you been chief of police?

A. About 18 or 19 years.

Q. You testified about a committee that the sheriff got up, who visited Mr. Flynn?

A. Yes, sir.

Q. Manager of the Republic Steel Corporation?

A. Yes, sir.

Q. How many visits did that committee make to the plant?

A. I only made one.

Q. Well, do you know whether—

A. I don't know about the other.

Q. You were a member of the committee, is that right?

A. I was only down there once with the committee.

Q. I say, you were a member of that committee?

A. They just called me to go with them, that is all I can tell you. The sheriff got the complaints. And the mayor and safety director and myself went down.

Q. Now, apart from your one visit, do you knew any other visits they made?

A. Not they made. I don't know what they done. But I didn't make any more personally.

Q. When you call it a committee, you were referring to this group of men that were called together, that went down to see Mr. Flynn?

A. Yes, sir.

Q. It wasn't a committee that had any name or title?

A. No, no, just the complaints. The sheriff got the complaints.

Q. A group of men?

A. The sheriff had the complaints. He had the paper with the names of the people on there, that the people was complaining about, and he took us down with him to go through with them, that is all, somebody would go to them and make a complaint.

Q. Just one second. Do you understand my question?

My question is whether or not this committee had any name?

A. No, sir.

Q. It was not a formal organization of any kind?

A. Absolutely not. Nothing but the mayor and the safety director and his chief.

Q. It was an informal group of a few men who went down at least once that you know about, to see Mr. Flynn, is that correct?

A. That is all I went down, yes, sir.

Q. Now, the sheriff had gotten a number of complaints about people being kept in the plant, is that correct?

A. Yes, sir.

Q. And he asked you and the safety director and the mayor to go along with him?

A. Yes, sir.

Q. Now, who else went on that trip, to see Mr. Flynn? Just the four of you?

A. Yes, sir.

Q. Have you ever received any complaints?

A. Yes, sir.

Q. Yourself?

A. Yes.

Q. And make a note of those complaints?

A. No, I sent them over to the sheriff.

Q. That is, every time you received a complaint you sent them to the sheriff?

A. Yes. If they called me, I told them to call the sheriff.

Q. Can you fix the date that you went over to see the manager of the Republic Steel mill?

A. No, I could not.

Q. Well, now try to fix the month. What month was it?

A. I can't do it. I can't tell you that.

Q. You can't tell me whether it was May, June, July, or August?

A. Well, it was shortly after the strike was called.

Q. Do you know when the strike was called?

A. It was probably maybe a couple of weeks after the strike was called, when the complaints started coming in.

Q. Do you know when the strike was called?

A. No, I can't tell you.

Q. You don't know whether it was May, or April, or June?

A. I think it was May.

Q. You think it was May?

A. Yes, sir.

Q. And you think you went to see Mr. Flynn about two or three weeks after the strike was called, sometime in May?

A. I think it was a couple of weeks after, yes, sir.

Q. No complaints had come in prior to the strike being called, had they?

A. No.

Q. They started coming in after the strike was called, is that correct?

A. Yes, sir.

Q. And it was during that three-week period between the starting of the strike and your visit to Mr. Flynn that you, yourself, and the sheriff received complaints, is that correct?

A. Yes, sir.

Q. Now, how many complaints did you receive?

A. Oh, I couldn't tell you, maybe ten or fifteen, maybe something like that.

Q. And you, yourself, personally received about ten or fifteen complaints?

A. I think it was about that many.

Q. When did the sheriff tell you that he was going to go over to see Mr. Flynn?

A. He didn't tell me about it until he called me up and said that he would like to have me go down with him.

Q. That is the day that you went over?

A. He came down and got me. I didn't go over.

Q. All right, then, he come over and got you?

A. Yes, sir.

Q. Took you up there to Mr. Flynn, it was three weeks after the strike was called?

A. I think it was about three weeks.

Q. That was the first time that you ever went to visit Mr. Flynn or in any way raised the issue with Mr. Flynn or any other official of the company about the complaints that you yourself had been receiving, is that correct?

A. Yes, sir. Yes, sir.

Q. In other words, you received about ten or fifteen complaints over a period of about two or three weeks, and you took no action on that until the sheriff called you up, to see Mr. Flynn?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And then the complaints—those complaints were by citizens of Warren?

A. Yes, sir.

Q. Who had—

A. Well, I don't know about all of them, some of them were telephone calls.

Q. Well, whatever they were?

A. Yes.

Q. However they came to you, on the ten or fifteen complaints that you didn't investigate, at all?

A. Yes, sir.

Q. They were complaints by people who were relatives of persons working in the plant?

A. I don't know.

Q. Or in some way connected with it, is that correct?

A. I can't tell you that. I can't tell you that. I don't know.

Q. Well, they complained about the fact that someone was kept in the plant?

A. They made the complaint, yes. I don't know who they were.

Q. And you made no investigation to find that out?

A. I told them to get ahold of the sheriff.

Q. I am asking you whether or not you made any personal investigation to find out who they were?

A. No.

Q. Either the persons who made the complaints to you, or the persons whom they complained about?

A. No, sir, I did not.

Q. And when the sheriff called you up you went over with him to see Mr. Flynn?

A. Yes, sir, absolutely.

Q. And do you remember what time of day that was?

A. I think it was about 1 o'clock.

Q. In the afternoon?

A. Maybe a little after 1:00, yes, sir.

Q. And you went over to see Mr. Flynn?

A. Yes, sir.

Q. How long did you stay there in that office?

A. With Mr. Flynn?

Q. That is right.

A. Why, probably ten or fifteen minutes, not over ten minutes, I don't think.

Q. Now, is that all the time you spent with Mr. Flynn?

A. Yes, sir.

Q. And was it during that ten or fifteen minutes that the persons who were complained about as having been

kept in the mill, were brought before you and the sheriff and the mayor and the safety director?

A. Was what?

MR. LAUTER: Read the question.

(Question read by the Reporter.)

A. They wasn't fetched into Mr. Flynn's office.

Q. Where were they fetched into?

A. Mr. Donovan's office.

Q. Mr. Donovan's office?

A. Yes, sir.

Q. How long were you in Mr. Donovan's office?

A. Well, probably from about 2 o'clock to about 4:30.

Q. About two and one-half hours?

A. I think so.

Q. How many people were fetched in there?

A. Probably 45 or 50.

Q. Tell me who was present in Mr. Donovan's office?

A. I can't tell you.

Q. Apart from the four of you?

A. The four of us with Mr. Donovan, I don't know who the other party was that went out and fetched in the people. I can't tell you.

Q. Who else was there besides Mr. Donovan?

A. The mayor, safety director.

Q. No, I am leaving out the mayor and the safety director.

A. I don't know who the other party was, at all. They know. I don't have his name.

Q. Were there a number of persons?

A. There was a number of them, yes.

Q. Employed by Republic Steel Corporation, in the room while these other persons were being fetched in?

A. The man that went out and fetched them in.

Q. Apart from the man that went out and fetched them in, who else was in the room besides the four of you?

A. I don't think there was anybody else in there.

Q. There was no else in the room besides the four of you?

A. No, sir.

Q. And the man that went out, to fetch them in, is that correct?

A. The party that fetched them in.

Q. The sheriff was the only one that asked the questions?

A. Yes, sir, he asked all the questions.

Q. He asked all the questions?

A. Yes, sir.

Q. Were the questions that he asked typewritten, or were they oral? I mean, did he—

A. Just asked them right off the reel, asked all the questions.

Q. And he hadn't typewritten questions?

A. No.

Q. Do you remember what the questions were that he asked them?

A. No, he just asked them—he showed them—he told them he had a complaint there from some of their folks, he had the papers. I never even seen the papers. He had the people's names on there, that made the complaints.

Q. When the sheriff asked you to go along to see Mr. Flynn about these complaints, did you have a conversation with him at that time?

A. With who?

Q. The sheriff?

A. No, he just come down there and picked me up, the mayor and the safety director, and him, come down, picked me up at my office, went right down to the Trumbull Steel.

Q. What did he tell you when he picked you up?

A. He said he had a lot of complaints about people being held in there against their will.

Q. Yes.

A. He wanted to go out there, investigate it, and I said, "I will."

Q. Did you consider it a part of your function, to assist in the investigating of these complaints?

A. With the sheriff?

Q. That's right.

A. Sure.

Q. Did you investigate?

A. Yes, I went with him.

Q. Tell me what you did personally as to investigate these complaints?

A. I didn't do anything personally. Outside of—

Q. What you did was to go along and sit there?

A. It was outside the city. I don't go outside the city on investigation.

Q. You did go outside the city that day?

A. I went with him, when he asked me to.

Q. That is right.

A. I will again, when he asks me.

Q. I know you will. You went down there and you sat there, is that right?

A. Yes, sir.

Q. But you didn't ask a question?

A. No, sir, I did not, absolutely not.

Q. Did you ever report back to any of the persons who complained about being kept in the plant? Registered the complaints?

A. To anybody that calls me up and asked me if I was down there, I said "Yes."

Q. Told them what you found out?

A. Yes, anybody that we talked to didn't want to get out so—

Q. These ten or fifteen people that made complaints to you, you say you turned over to the sheriff?

A. I turned them over to the sheriff.

Q. You don't know whether the sheriff, in turn, made any report on those complaints?

A. I don't know anything about that.

Q. You don't know what action was taken, after you went out there? To Mr. Donovan's office, is that correct?

A. No. After we went to Donovan's office—

Q. That is correct.

A. After the sheriff went out of there.

Q. After the four of you went out of there?

A. No, I don't know anything about it, no.

Q. You were taken home again?

A. I came up to my office.

Q. And the sheriff came down and he picked you up, took you out to Mr. Donovan and Mr. Flynn, and after you had sat there and asked them questions, they put you back, is that right?

A. After they asked the people.

Q. What is that?

A. After he asked the people.

Q. Yes.

A. Yes. He took me back to my office.

Q. That is what you did on that trip?

A. Yes, sir.

Q. Now, you testified about some of the employees sleeping in Pullman cars?

A. Girls.

Q. Do you know how many Pullman cars there were, there?

A. One. One is all I seen. I don't know how many was there.

Q. And they were sleeping in these Pullman cars?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir, that is what they said.

Q. Now, prior to the injunction being issued, you didn't take any men into the plant, is that correct?

A. No, sir, I didn't.

Q. And if they wanted to come out, you took them out?

A. Yes, sir.

Q. But after the injunction, you took men into the plant, is that correct?

A. I didn't take anybody in. We didn't stop them from going in.

Q. Just one second. Are you sure you didn't testify on direct examination that after the injunction was issued, you took men into the plant?

A. No, I never took nobody in.

Q. Well, now, let me repeat the question once more. Maybe I have not made myself clear. It is my recollection —I may be wrong, and you can correct me—now, on direct examination, you testified that after the injunction was issued, you took some men into the plant?

A. No, sir.

Q. You never took any men into the plant?

A. Never took anybody in.

Q. And if it so appears in direct examination, that is incorrect, is that correct?

A. Absolutely. I never took them in.

Q. Now, you testified about a crowd of 1000 people?

A. Yes, sir.

Q. And you referred to them as 1000 pickets, is that correct?

A. Why, I don't know whether they were all pickets or not, but there was a thousand people there at the corner.

Q. No, that is what I want to ask. You don't know whether they were pickets or not?

A. I don't say so.

Q. You don't know whether they were C. I. O. members or not, is that right?

A. Well, the biggest part of them was.

Q. How do you know?

A. Why, they had pins—had buttons on.

Q. When you say the biggest part of them were, is that what you say?

A. Yes.

Q. That more than 500 people there, you yourself personally will testify were C. I. O. members because you saw them with buttons?

A. Well, I know a lot of the faces, too.

Q. I am asking you whether or not you can testify that the great majority or substantially—I mean a majority of that thousand people there was C. I. O. members?

A. Well, I couldn't swear to that, I didn't count them.

Q. Would you swear to the fact that there were a thousand people there?

A. Yes, sir, yes, sir.

Q. You testified on another occasion there were two thousand people?

A. Not on that—I said on the street.

Q. Yes.

A. I didn't say at the corner of Pine and Walnut, if that is what you are talking about.

Q. No, I am merely referring to the number you saw?

A. Do you mean on the street, or on this one corner there?

Q. At either place or both places?

A. Well, on the street there were probably 3000 people.

Q. 3000?

A. From the headquarters their C. I. O. headquarters was on Pine Street.

Q. About 3000 then?

A. From the headquarters down, of course, we had the traffic stopped.

Q. Now, do you know whether or not they were all C. I. O. men?

A. I don't know anything about that.

Q. You just saw a big crowd there?

A. Absolutely, yes; I can't tell you.

Q. Now, you also testified about pickets directing traffic?

A. Yes, sir.

Q. Were they peaceful in directing traffic?

A. I don't know.

Q. Well, you are the Chief of Police, is that correct?

A. Yes, sir.

Q. Is that in or outside of the city limits?

A. Inside the city.

Q. Were they peaceful in directing traffic?

A. I wasn't down there; I didn't see it.

Q. What was that?

A. I wasn't down there.

Q. Well, let us get this straight. The testimony that you gave on direct examination, and you are now saying you were not down there?

A. I said I wasn't working on traffic down there. The traffic men was there with them. I wasn't down there directing traffic. Whether it was peaceful or not, I don't know.

Q. I am asking you whether or not if you didn't say on direct examination concerning the directing of traffic is something that you personally witnessed or not?

A. I seen some; some I didn't. 24 hours a day.

Q. Did you see it on any occasion?

A. Yes.

Q. When you say they were there directing traffic; that is, the strikers or pickets; was the direction of traffic there peaceful?

A. No, it wasn't.

Q. It wasn't?

A. No.

Q. When you say it wasn't peaceful, what do you mean?

A. Yes, sir.

Q. What?

A. It wasn't peaceful because they had a big ball bat in their hands and they had people stopped.

Q. Did you take any action there?

A. Yes, sir.

Q. How many times did you go down there?

A. I wasn't down there all the time. I was down there, I noticed, about that traffic.

Q. When you noticed that traffic there, did you take any action?

A. Yes, sir.

Q. What did you do?

A. I made them pull their machines off the street. They had had it blocked off—we first put up that barricade and we put two horses to keep the sightseers out of there from coming down there. Later it rained a little bit and then the fellows put two machines across the street, and a fellow that had a box factory across the street came to me and made a complaint about it. He told me—he said that the C. I. O. fellows had left the machines across the street and that he couldn't get to work, and I went down there and made them take the machines away.

Q. Did they take the machines away?

A. They took the machines away.

Q. You shut off the traffic there, is that correct, by putting two horses there?

A. Yes, sir.

Q. And the C. I. O. fellows came in there and it was raining and they put two automobiles there, is that correct?

A. Yes, sir.

Q. And when you got a complaint you ordered them to take the two automobiles away, is that right?

A. Yes, sir.

Q. Did they take them away?

A. Yes, sir, they took them away.

Q. Is that the extent of their lack of peacefulness?

A. Oh, no.

Q. On that occasion when you were there—if you—

A. Do you want me to tell about the complaints?

Q. No, I am interested in that visit you made down there.

A. That is all I can testify.

Q. That is what I want to know.

A. Yes, sir.

Q. Is that all you know?

A. Yes, sir.

TRIAL EXAMINER LINDSAY: We will adjourn for a recess. It is 5 minutes to 3.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. LAUTER: That is all.

Redirect Examination

Q. (By Mr. Jones) Mr. Gillen, in cross-examination you stated there was no formal committee. I believe that during my examination of you I used the word "committee" a great many times. I will ask you to state if when I used that word "committee" what you understood of it then.

A. Well, I understood about the committee going to the mills; what the gentlemen told me and spoke to me about.

Q. The foremen of whom you were one?

A. Yes, sir.

Q. You understand that every time I used the word committee, didn't you?

A. Yes, sir.

Q. Also in connection with your cross-examination, I think Mr. Lauter used the words "took no action" referring to the time after which these telephone complaints were made to you. I wish you would please state what you did after the telephone communications or complaints were made to you.

A. Sent them over to the sheriff.

Q. That is, you didn't make any investigation of them yourself?

A. No, sir.

Q. And your department?

A. No, sir.

Q. I don't know whether it is clear or not. Were these 10 or 15 complaints that you talked about all telephone calls to you or were some telephone calls or some in person?

A. Some was persons.

Q. Those that came in person you sent to the sheriff?

A. Yes, sir.

Q. Those that called you up, what did you tell them?

A. I referred them to the sheriff.

Q. In the cross-examination I think Mr. Lauter used the words "All you did you just sat there." With reference to the time that you were in Mr. Donovan's office. I will ask you to state what it was that you did with reference to this investigation before you got to Mr. Donovan's office.

A. Talked to some people as we went down through the mill.

Q. That is the walk that you took through the mill?

A. Yes, sir.

Q. I didn't understand on your direct examination

with reference to Pine Street. Also with reference to Pine Street and Walnut Street whether the barricade that you told us about was put there first across Pine Street or whether it was first put there after some automobiles had been removed in connection with your orders.

A. Well, the barricade was put there at the time the strike was declared to keep the sightseers from going in there.

Q. That was the first thing that was there?

A. Yes, sir, on the corner of Pine and Walnut.

Q. Yes.

A. Yes, sir.

Q. Now, there were some questions that Mr. Lauter asked you respecting automobiles blocking the street. Were they at this same point?

A. Yes, sir.

Q. And you stated that you wanted them to be removed?

A. Yes, sir.

Q. Now, when were they ordered by you to be removed? Was that before or after the barricade?

A. I said after. It started raining—

Q. Yes.

A. —and the policemen didn't stay there when it was raining, and they put two machines right across the street, and a man couldn't get down to work that was working at the box factory and he complained to me, and I went down personally with him and I found out who owned the machines, and I told them to remove them and they removed them.

Q. Was that before or after the barricades were placed there?

A. No, the barricade was still there.

Q. The barricade was still there?

A. Yes.

Q. Did the barricade cover the whole of Pine Street?

A. Not practically. The two big horses would not cover the street but enough to keep the people from coming down there.

Q. Where were those automobiles placed?

A. Right close to the barricade.

Q. What?

A. Right close to the barricade.

Q. They would block the rest of the street?

A. No, right where the horses were.

Q. And you went down there?

A. Yes, sir.

Q. Were they in such a position as to block the traffic on the street?

A. Yes, sir.

Q. You wanted them removed?

A. Yes, sir.

Q. You discovered whose cars they were?

A. I asked the fellows who owned the cars and they said they did, and I told them to remove the cars and they removed the cars.

Q. Did these men who removed the cars have C. I. O. buttons or badges on?

A. Yes, sir.

Q. These C. I. O. badges that you have told us about?

A. Yes, sir.

Q. With respect to the peacefulness of these persons who were directing traffic at the corner of Walnut and Pine Street, I wish you would please tell us about that if you know or if you have any personal knowledge as to whether or not the direction of traffic by these persons, that you were asked about on cross-examination, was or was not peaceful?

A. No, I couldn't say it wasn't peaceful. I said before I told them that they had baseball bats and they was there directing the traffic and stopping them the other way with baseball bats.

Q. Some question was asked and an answer was made by you on cross-examination as to the lack of peacefulness. What did you mean by that?

A. In a general way?

Q. Yes.

A. At the corner of Pine or where?

Q. Wherever you observed the condition to exist.

A. The condition was along the picket line; where they throwed some bricks.

Q. How is that?

A. Where they throwed some bricks.

Q. Where is that?

A. On Walnut Street.

Q. Now, you are telling what you saw yourself?

A. No, I didn't see that. Those were complaints to me.

Q. You are telling now about the complaints that came to you?

A. Yes, sir, I didn't see any.

Q. Did they come to you in your department; did they come to the Police Department of Warren?

A. Yes, sir.

Q. And came to your attention as Chief of Police of that department?

A. Yes, sir.

Q. I wish you would tell us where these complaints that came to you respecting the lack of peacefulness on the part of the pickets during the strike in Warren.

A. The people came to me and told me that they was throwing nails on the streets, and throwing bricks at automobiles and I give the policemen orders to go down there on the lines which they did; on Walnut and Pine Street.

Q. When were these complaints made relating to the activities of the pickets on Walnut Street?

A. Well, the first complaint came in after they opened

the mill. After the Judge said they had a right to go to work.

Q. When was that with reference to any particular time? Can you fix it?

A. No; I didn't put any time on them. When the Judge put the injunction on and said the men had a right to go back and forth to work without being molested.

Q. It was after this complaint was made?

A. Yes, sir.

Q. Did you order some investigation to be made of this complaint on Walnut Street?

A. I ordered men on there, yes, sir. Had men on there—three shifts. From 6 o'clock in the morning until 20 minutes to 7, and then from 2 o'clock until 20 minutes after 3 and then from 10 o'clock until 20 minutes after 11: three shifts.

Q. How many officers were there that you detailed to this job?

A. Well, I had some special men; I can't tell you.

Q. How is that?

A. I had only 27 men altogether.

Q. Well, how many officers that you detailed on this job on Walnut Street?

A. Probably 16 men on it.

Q. What were the orders that you gave to them?

A. Gave them orders to go down there and keep order.

Q. Did you receive any report as to what was the condition there?

A. There was some arrests made.

Q. About how many?

A. Probably a dozen.

Q. What is that?

A. Probably a dozen arrests.

Q. Were those reports made to you; to your department?

A. Yes, sir.

Q. Did the reports say what the arrests were for?

A. Yes, sir.

Q. What did they say with respect to that?

A. I can't say about all of them; they were different ones.

Q. What?

A. They was different ones. Arrests were made for some disturbances. I can't tell you. I haven't got that record here with me; didn't come down here for that at all.

MR. LAUTER: At this time, Mr. Trial Examiner, I would like to object to any further testimony along this line on the ground, first, that the testimony with respect to the arrests is not valid and is incompetent. First, no records are being produced here concerning the arrests that were made by the Police Department; secondly, even if it were produced that would not be relevant and material; I object to any further testimony along this line because nothing that I went into on cross-examination entitles counsel for the Respondent Company to go into the reports of the acts of violence that were made to the Chief of Police.

TRIAL EXAMINER LINDSAY: Yes. I will sustain the objection. Let the record show an exception.

MR. JONES: Exception.

MR. JONES: The reason I asked this line of questioning Your Honor, is because Mr. Lauter clearly opened the door in cross examination just before Your Honor ordered an adjournment, if I mis-state not.

MR. LAUTER: Nothing that I opened the door—, there was nothing in my cross examination that opened the door to the extent of any inquiry as to acts of violence by unidentified persons. It seems to me quite clear, if it please Mr. Trial Examiner, that this is just another occasion in which we are faced with

the proposition of having acts of violence going into the record, in this case, not even identified by any person in any way. Now I didn't make objection to this point because I had hoped that counsel for the Respondent would drop this line of inquiry, but this is inevitably going to happen on every witness that is going to be called to the stand, that by one point or another, they are making every attempt to get this line of questioning into the record.

MR. JONES: May I have the record read at the close of Mr. Lauter's examination

TRIAL EXAMINER LINDSAY: You may have that read; the only thing I recall the witness saying anything at all was not violent, that some of he pickets had clubs and waved at cars to stop. I believe that is all that went on in cross examination.

MR. JONES: I was under the impression that it had gone further than that, Your Honor.

TRIAL EXAMINER LINDSAY: But not only that; the witness said in answer to your re-direct examination that he could not say the picketing was not peaceful, that you will find in your testimony on your re-direct examination of this witness.

MR. JONES: I wonder if I may have that read back?

TRIAL EXAMINER LINDSAY: Yes, you may have it all read back if you so desire.

(The last three pages just before recess adjournment were referred to.)

MR. JONES: I think what I have in mind begins on that page (third page from end of take, just before recess adjournment).

TRIAL EXAMINER LINDSAY: Objection is sustained and let the record show an exception.

MR. JONES: Now, Your Honor having received the several sheets of the record immediately preceding

the recess that was requested, and having looked them over, may I state the reasons from them why it is that I think Mr. Lauter opened the door to permit this line of re-direct examination?

TRIAL EXAMINER LINDSAY: Yes.

MR. JONES: I find in the cross examination that Mr. Lauter asks these questions and elicited the answers following:

"Q. Now you also testified about pickets directing traffic.

A. Yes, sir.

Q. Were they peaceful in directing traffic?

A. I don't know.

Q. Well, you are Chief of Police, is that correct?

A. Yes, sir."

MR. JONES: There is another question which I'll omit which has nothing to do with this, I quote:

"Q. Were they peaceful in directing traffic?

A. I wasn't down there, I didn't see it.

Q. What was that?

A. I wasn't down there.

Q. Well, let us get this straight; the testimony that you gave on direct examination and you are now saying you were not down there?

A. I said I wasn't working on traffic down there, the traffic men was there with them, I wasn't down there directing traffic; whether it was peaceful or not I don't know.

Q. I am asking you whether or not if you didn't say on direct examination concerning the directing of traffic is something that you personally witnessed or not?

A. I seen some, some I didn't, twenty-four hours a day.

Q. Did you see it on any occasions?

A. Yes.

Q. When you say they were there directing traffic, that is the strikers or pickets, was the direction of traffic peaceful?

A. No, it wasn't.

Q. It wasn't?

A. No.

Q. When you say it wasn't peaceful, what do you mean?

A. Yes, sir.

Q. What?

A. It wasn't peaceful because they [had] a big ball bat in their hands and they had people stopped.

Q. Did you take any action there?

A. Yes, sir.

Q. How many times did you go down there?

A. I wasn't down there all the time, I was down there, I noticed about that traffic.

Q. When you noticed that traffic there, did you take any action?

A. Yes, sir.

Q. What did you do?

A. I made them pull their machine off the street. They had had it blocked off. We first put up that barricade and we put two horses to keep the sightseers out of there from coming down there. Later it rained a little bit and then the fellows put two machines across the street, and a fellow that had a box factory across the street came to me and made a complaint about it. He told me, he said that the CIO fellows had left the machines across the street and that he couldn't get to work, and I went down there and made them take the machines away.

Q. Did they take the machines away?

A. They took the machines away."

MR. JONES: Omitting several questions which I don't think are applicable:

"Q. Is that the extent of their lack of peacefulness?

A. Oh no.

Q. On that occasion when you were there—, if you—,

A. Do you want me to tell about the complaint?

Q. No, I am not interested in that visit you made down there.

A. That is all I can testify.

Q. That is what I want to know.

A. Yes, sir.

Q. Is that all you know?

A. Yes, sir."

MR. JONES: Then the Examiner adjourned for recess. Now that is what I believe opened the door.

TRIAL EXAMINER: Well, he didn't testify there was violence at all. The question of violence wasn't really entered into; he didn't establish any violence by the fact of testifying that these men supposedly had clubs in their hands directing traffic, so therefore the objection is sustained and let the record show an exception.

MR. JONES: Now may I revert back to that question I asked your Honor before, as to—, on the matter of the offer to prove without going into that now, may we later go into it on the preview order of the Court respecting a written offer of proof?

TRIAL EXAMINER LINDSAY: I suppose.

MR. JONES: That is all unless, Mr. Lauter has something else.

MR. LAUTER: That is all.

(Witness excused.)

DR. CHARLES WESLEY THOMAS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Judge Smith) What is your full name, Doctor?

A. Charles Wesley Thomas.

Q. And you live where?

A. Warren, Ohio.

Q. And you are engaged in what profession?

A. Practicing medicine and surgery.

Q. How many years have you been so engaged?

A. Thirty-three years.

Q. Has all of that been in Warren?

A. Well, except a year and a half, which was at Lakeside Hospital in Cleveland, after I come to Warren and been there since.

Q. You are a graduate of what college?

A. Western Reserve University.

MR. LAUTER: Sorry, I didn't get the last answer.

THE WITNESS: Western Reserve University.

Q. (By Judge Smith) Now, Doctor, do you have anybody associated with you in your professional practice?

A. Yes, sir.

Q. How many doctors?

A. One, Dr. J. J. Tyler, of Warren, is my assistant.

Q. Now do you have employment with the Republic Steel Company in any capacity, in connection with their plant at Warren?

A. I have.

Q. What is that employment?

A. Surgeon.

Q. And what are the duties in connection with that employment, Doctor?

A. Well, I do all the surgical work for the accident cases, and my assistant and I make all the medical examinations of all the employees, and we have a hospital, a plant hospital, where we employe four nurses who oversee the care of the hospital and the welfare of the patients at the mill.

Q. How many years have you been employed as Company surgeon for the Republic?

A. 1913, ever since Trumbull Steel was established.

Q. That was formerly the Trumbull Steel Company?

A. Trumbull Steel in 1913, and then bought over by the Republic.

Q. And during all of that period, both prior to and since, Republic acquired the plant, you have acted in that capacity?

A. Yes, sir.

Q. Do you remember, Doctor, the date of the strike in May of this year?

A. Yes, sir.

Q. Do you recall what day it was?

A. Wednesday, the 26th.

Q. Of what month?

A. May.

Q. I forgot that I had used the word 'May' in my question. Were you in the plant the night of the strike?

A. I was not, except I was called down by Mr. McClain, the local secretary of Industrial Relations, and the object of my first visit that night was to bring some insulin down. Mr. McClain called me and said that one of the bricklayers had diabetes and needed insulin, and I got down with the insulin about eight P. M. Wednesday night.

Q. Did you have any difficulty in getting in the mill that night?

A. I was advised by Mr. McClain over the telephone

that there was a strike on and if I met difficulty, not to stop, to secure some other way.

MR. LAUTER: Move the remarks of the witness be stricken from the record as not responsive.

TRIAL EXAMINER LINDSAY: Yes, it is stricken.

Q. Not what Mr. McClain told you or any instructions—.

A. I took the insulin down to administer to this man.

Q. I asked you if you had any difficulty in getting into the mill that night.

A. I did, yes, sir.

Q. Just state what occurred?

A. I noticed going down Pine Street that lot of men had gathered all over the sidewalk and I went on and got to the mill gate on South Pine; there I was stopped by a crowd of men around the gate. I came over into the roadway and they started to attack my car and immediately Mr. Wines spoke up, whom I have known very well, and said, "That is Dr. Thomas, let him in." He had agreed with Mr. McClain that I should go in with this insulin. They folded up and let me in.

MR. LAUTER: Move the remarks of the witness that 'they started to attack him' be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken, it doesn't mean anything.

JUDGE SMITH: May I have an exception to that ruling, please?

TRIAL EXAMINER: Yes.

Q. (By Judge Smith) State what, if anything happened to your car in going in there?

A. Several fellows hit it with their clubs on the fenders.

Q. And that was just at the entrance?

A. At the entrance to the gate before they opened up the crowd and let me through.

Q. Now who is Mr. Wines?

A. Mr. Wines happens to be a friend of mine, of good many years standing; I think he is president of the local CIO, he is one of the officials, I know.

Q. Do you know whether or not he was in charge of the men who were located at this gate that night?

A. He seemed to because at his word, they obeyed the signal.

MR. LAUTER: I object. Remarks of the witness be stricken from the record, 'they seemed to be.'

TRIAL EXAMINER LINDSAY: 'They seemed to be' may be stricken.

Q. (By Judge Smith) Do you know whether or not he was?

A. He acted in that capacity.

MR. LAUTER: I move the answer be stricken.

TRIAL EXAMINER LINDSAY: Tell us what he did. That is stricken.

THE WITNESS: He said "Fellows, this is Dr. Thomas and he has the right to go through," and they opened up the crowd and I went through the gates.

Q. Was there any further beating of your automobile after he said that?

A. No, sir.

Q. Now did you remain in the mill after you got in there?

A. I did until about midnight that night, then I went out and went home.

Q. Did you have any difficulty in getting out?

A. No difficulty whatever.

Q. When did you next come back to the mill, if you did come back?

A. It is my custom to go to the mill every morning about ten-thirty to do the surgical work, the dressings and

assist the nurses, and so on, but in the meantime, before ten-thirty Mr. Bill Clark, who is a local labor man, secured a permit for me from Mr. Hall, which gave me permission to go back and forth on Pine Street. I just showed that permit—.

Q. And went through the picket line?

A. And went through the picket line, I just held the permit, a blue slip, up in my car window and that gave me permission to go through.

MR. SMITH: I wish you would mark that as Respondent's next exhibit.

(The document above referred to was marked as Respondent's Exhibit 36 for identification.)

Q. (By Mr. Smith) Doctor, I show you a card that has been marked for identification as Respondent's Exhibit 36.

Q. I ask you if that is the card you referred to?

A. That is it.

MR. SMITH: I wish to introduce Respondent's Exhibit 36 in evidence.

MR. LAUTER: I object on the ground incompetent, irrelevant, and immaterial.

TRIAL EXAMINER LINDSAY: I will reserve ruling. May I state that the question there about striking this car with clubs is stricken from the record. Let the record show an exception.

MR. SMITH: Do I understand, your Honor, that that testimony has been stricken out?

TRIAL EXAMINER LINDSAY: Yes, you may include that in your offer, general offer.

MR. SMITH: I see. The Court is doing that on its own motion?

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: There wasn't any objection to it.

TRIAL EXAMINER LINDSAY: It doesn't make any difference.

MR. SMITH: All right. I just want the record to show that it was on the Court's own motion.

TRIAL EXAMINER LINDSAY: Well, it shows it anyway.

MR. SMITH: Yes. All right. May I have an exception to it?

TRIAL EXAMINER LINDSAY: You may have it.

Q. (By Mr. Smith) Doctor, who is Gus Hall, if you know?

A. I don't think I met Gus Hall. No, sir, I didn't.

Q. I see.

A. This was secured through Mr. William Clark.

Q. Were you permitted, then, from that time on, to go in and out as you pleased?

A. I was, until Sunday morning, that would be May 30th.

Q. Yes.

A. At which time I was informed by Ed James, who was a very, very old patient of mine—got into my car on Sunday morning and said that he wanted to inform me this, he didn't want any of the other fellows to tell me, that I was to either stay in or stay out.

Q. Of the mill?

A. Of the mill.

Q. Now, this Mr. James, that you speak of, he was on the picket line?

A. He was. He was at the gate.

Q. And what did you do, Doctor?

A. Well, I said, "I have to—I am going in, to stay in, but before I do that, I have got to go back to the city hospital." I had a case prepared for operation, and he very kindly assented to go with me. And while I was operating he went home and got his Sunday dinner and came back and

picked me up and took me down to the mill, about 2 that afternoon.

Q. I see.

A. And in the gate with me, and then left at the gate.

Q. And you remained in the mill from that time on?

A. Yes, sir, until June 23rd, except one or two or three—three occasions, I think I had to leave, to operate some emergency—two were for the relatives to the C.I.O. boys who wanted me out to do it. The other was a private case that we had to attend to, and the sheriff took me out at this time.

Q. Now, on getting out to operate for these emergencies, how did you accomplish it? What did you do?

A. Well, our chief of police, Mr. Hanna would communicate with Mr. Hardman and tell him the urgency of the occasion.

Q. Now, Mr. Hardman, that is who?

A. Sheriff.

Q. Yes.

A. And he or his deputies took me out, each time, and brought me back.

Q. I see. Doctor, while you were in there, did you have occasion to investigate or examine the facilities for feeding the men who were in the mill?

A. Yes, sir. A committee who was composed of Mr. George McLain and myself and Mr. Dye usually made trips throughout the mill, investigating the restaurants and sleeping quarters about twice a week, and we furthermore ate in these different restaurants on the occasions where we went.

Q. What was the result of your investigations as to the condition of the food supply and the food that was furnished?

A. Well, the food supply was scarce until Sunday the 30th, when an airplane landed. After that we had abundant food and the best food they could buy.

Q. And did you examine the refrigeration end?

A. Yes, sir.

Q. What do you say as to the condition of that?

A. Absolutely as good as could be had. Every frigidaire was working 100 per cent.

Q. Some testimony has been given as to a Mr. Riffle and someone else, I believe, that remained in the mill and probably the day following the strike—

A. Yes, sir.

Q. Do you remember that incident?

A. I remember Mr. Riffle because I had operated on him. I know him personally. He comes to my mind. He come in the next day, was very nervous, and he says, "Doctor, I want to go home. I am sick." We had instructions that any man that wished to go home, that was sick, had first to come through the hospital and to be o. k'd. as sick. Then, of course, we were allowed to have him go home, which we did that day.

Q. Yes.

A. He complained that his stomach was off, his stomach was disturbed, and indigestion, and so on, but he did not have any diarrhoea and he hadn't vomited. I thought it was a clear case of nervous indigestion, and put it down as such.

Q. And do you recall who the other man was, that was with him at the time or about the same time?

A. I do not. No, sir, I don't recall that.

Q. Albert Lewis, does that help you any, Doctor, when I mention his name?

A. No, it don't. I have forgotten it.

Q. Well, from your diagnosis, would you say that the food in the mill had anything to do with this illness?

A. Nothing whatever.

Q. Now, you say you ate this same—at this same---

A. I ate three times a day.

Q. At this dining table there?

A. Yes, sir.

Q. What do you say as to whether or not the food that was there, was wholesome, and what do you say as to the quantities of it, in connection with the men that were in the mill?

A. I can only say that by direct communication with the men, they were all very well satisfied. Many men told me they ate much more than they did at home.

MR. LAUTER: I move the remarks of the witness with respect to their being well satisfied be stricken out as incompetent, irrelevant, and immaterial.

Q. (By Mr. Smith) You are not permitted to testify, Doctor, as to a conclusion. You may state—

A. The men told me they were very well satisfied.

TRIAL EXAMINER LINDSAY: That is stricken from the record.

MR. SMITH: Yes.

Q. Now, the men told you what?

A. The men told me they were very well satisfied.

Q. Oh, they told you that?

A. They told me that. Numerous men. That is my chief business, to go looking into the social set-up and the care of the men. The nurses took care of most of the minor accidents, whatever they were; minor sicknesses, with my supervision.

Q. Doctor, what did you observe there in regard to any entertainment that was furnished to the people in the plant?

A. We had a social committee which looked after that. They saw to it that we had moving show brought in, sent in by airplane, and we had a change of scene every night. Most all of the time that the strike was on.

Q. Yes.

A. On Sunday we arranged it that we had three church services, one for the colored, one for the Catholics,

and one for the Protestants, every Sunday morning.

Q. Now, did you have occasion, Doctor, while you were there, to make any investigation of the quarters of the women who remained in the plant were located?

A. Several occasions, yes, sir.

Q. Just tell the Court what you observed?

A. Well, the nurses—we have a hospital with four beds downstairs in a large room. The nurses made that their quarters, the four female nurses; and had about 14 girls in the tin house, we had a Pennsylvania sleeper for them. And they had their restroom which they entertained themselves in, and got along perfectly fine.

Q. Now, as to bathing facilities, what would you say as to that?

A. We set up—just as the strike started—two or three shower baths in these quarters for the nurses, just opposite their restroom, not in the cars.

Q. Well, were the ladies and women who remained in the plant—were those accessible to them also, as well as the nurses?

A. Accessible to the nurses and to the female help in the refractory plant.

Q. What did you learn, Doctor, as to whether or not the proper privacy was maintained?

A. Oh, absolutely.

Q. For the women workers there?

A. Absolutely. Each bath was curtained off with heavy canvas. It is strictly in the women's quarters, where no one was allowed to go, but these 14 or 15 women.

Q. How many years do you say you have been practicing medicine?

A. 33.

Q. Do you consider, in that length of time, in your practice, that you are in a position to testify as to what is the normal health of a group of people?

A. I think I would be entitled to that much judgment, medical judgment.

Q. What do you say, Doctor, as to whether or not the people who remained in the mill during this period were—had normal health?

A. Excellent health, I would say. Excellent. I would, considering our statistics—we had no serious sickness, no epidemic, no contagion, no intestinal toxemia which might be with improper food. Just the ordinary headaches and indigestions and things like that.

Q. Yes.

A. Minor accidents. I don't think we had a man laid off with an accident during the whole strike.

Q. Now, Doctor, did you have occasion while you were in there to observe any instructions or directions that were given by the officers in connection with the men in the mill—

A. In what respect?

Q. Well, as to whether or not any instructions as to their remaining or their being allowed to leave?

A. We had a meeting—I happened to be on the Executive Committee and we had a meeting in Mr. Flynn's office and all that was threshed out and we insisted that any man that wanted to go home, that didn't want to remain but who wanted to go home—

MR. LAUTER: I move that "threshed out" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

JUDGE SMITH: That is a conclusion, Doctor.

Q. Now, just state—you say you were a member of the Executive Committee?

A. Yes, sir.

Q. That was an organization in connection with this strike situation?

A. Yes, sir.

Q. State whether or not there was a discussion of that matter with your Executive Committee.

A. There was.

Q. And in connection with your Executive Committee what were the instructions that you heard given by the management in connection with their allowing any men who wished to go home?

A. He may go home.

Q. Do you know whether or not those instructions were given to the superintendents and foremen?

A. Yes, sir, there were always a lot of superintendents in that office in the morning.

Q. During the entire time you were there, did you observe any incident of anyone who was prevented from leaving or desired to do so?

A. Absolutely not.

Q. Do you know anything, Doctor, in regard to anyone from the Board of Health or the Sanitary Offices of the County—

A. Yes, sir.

Q. —coming into the mill at the time you were there?

A. Yes, sir.

Q. Will you tell us about that?

A. On June 10th the President of the Board of Health who was Dr. Connell called me up at the mill and said that he had heard some stories about improper food and improper housing and that there was a general critical and destructive criticism going around the town; so I invited him up to come there and he came the next morning about 11 o'clock. The Committee took him all over the plant. He happened to have lunch with me. He investigated everything—Frigidaires, meats, saw where we kept all the foods, canned goods and cheese and that stuff. He wrote me a very excellent letter passing out with an A rating on the housing of the food and the manner of administration.

In fact, he said that he had a better dinner there than he would have had uptown.

Q. Do you know of any report that was made by Mr.—

A. I do (handing a paper to Judge Smith).

JUDGE SMITH: Will you mark this Respondent's Exhibit 37 for identification?

Q. Doctor, I show you a copy of the Warren Tribune Chronicle bearing date of Warren, Ohio, Friday evening, June 11th, 1937, and which has been marked for identification as Respondent's Exhibit No. 37, and ask you if the report you referred to is contained in that paper?

(Thereupon the document above referred to was marked Respondent's Exhibit No. 37 for identification.)

A. Yes, sir, that is that.

Q. Doctor, on this newspaper that you referred to, is the article "Trumbull Health Commissioner says Mill Conditions are O. K."

A. Yes, sir.

Q. The article that you refer to as the report of this doctor?

A. Yes, sir.

JUDGE SMITH: Now, your Honor, I desire to introduce a portion of this newspaper that is covered by the article just referred to.

MR. LAUTER: Objection on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 37 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 37" was received in evidence.)

JUDGE SMITH: Your Honor, in regard to this, I think this covers the portion of it aside from—I would like to have this statement taken in the record—

TRIAL EXAMINER LINDSAY: I don't know what you are driving at.

JUDGE SMITH: I wish you would permit me to tell you on this—

(Discussion off the record.)

JUDGE SMITH: I wish the record to show that there is additional testimony—

TRIAL EXAMINER LINDSAY: No; I thought you were going to ask a question; ask the question. We will rule on it.

Q. Doctor, during the time you were in the plant, did you observe pickets around the plant?

A. Around the hospital, yes, sir.

Q. And during this time did you observe whether or not they were carrying anything in their hands?

A. Yes, sir, I observed it.

Q. What was the character of the things that you found them carrying in their hands?

A. Clubs—

MR. LAUTER: I object on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection sustained. It is going right back into the same ruling before and you may include it in your general offer to prove.

JUDGE SMITH: May I have an exception on the ruling?

TRIAL EXAMINER LINDSAY: You may have an exception.

JUDGE SMITH: Exception. That is all.

Cross Examination

Q. (By Mr. Lauter) Dr. Thomas, what is your full name?

A. Charles Wesley Thomas.

Q. Is that W-e-s-l-e-y?

A. Right.

Q. You are a medical doctor?

A. Oh, I do 90% of my work in surgery.

Q. Well, are you a specialist in the field of surgery?

A. No, I wouldn't call myself a specialist because I do general practice.

Q. 90% of your work is in the field of surgery?

A. I would say 90%, yes.

Q. Are you on the payroll of the Republic Steel Corporation?

A. I am.

Q. In what capacity have you been hired by them?

A. Surgeon to take care of all the medical work.

Q. You say you are hired as a surgeon to take care of all the medical work?

A. Surgery and taking care of all their medical work.

Q. Now you testified that you were graduate of what college?

A. Western Reserve University, Cleveland, Ohio.

Q. And are you also a college graduate?

A. Yes sir, got my AB in 1900.

Q. And that is from Western Reserve?

A. Yes, sir.

Q. I see a pin on your chain, is that a Phi Beta Kappa?

A. Exactly, yes sir.

Q. You got that while you were attending Western Reserve?

A. Yes, sir.

Q. After you got out of Western Reserve, you got

your AB, you went to Western Reserve Medical School?

A. Yes, sir.

Q. Did you specialize in any field there?

A. No, in medicine, you say?

Q. Yes, that is right.

A. No, we took our general work in medical field, four years, you know.

Q. After you got out of medical school, did you specialize in anything?

A. No, I wouldn't say I specialized, I came to Warren about a year and a half after that and did general practice for a number of years and gradually drifted into the field of surgical work.

Q. You say you gradually drifted into the field of surgery?

A. Yes, sir.

Q. Now is Western Reserve University Medical School a Grade A school?

A. Well, I guess it is.

Q. Well, you know it is?

A. I know it is, sir, emphatically so.

Q. And how soon after you graduated did you drift into the field of surgery?

A. When I came to Warren, I assisted the old surgeon who used to do all the surgery, practically, of Trumbull County for about ten years, I would say, and I have been going east on different occasions, taking up medical work in the summer, surgical work, and in about 1910, I guess, or '12, a little later than that, I started to do my own surgery and have since then done it.

Q. And since then, ninety percent of your practice has been in surgery?

A. Gradually increased.

Q. You say it has been increased?

A. Since then it has been gradually increased; into surgery. We are talking about surgery?

Q. Yes, we are speaking about surgery.

A. Yes, sir.

Q. And you are primarily interested in surgery?

A. Yes sir. Right now it is chiefly surgery but in the years gone by it has been general practice.

Q. You say right now it is chiefly surgery, is that correct?

A. Yes, sir.

Q. Now you went into the mill on about May 30th, you say?

A. I went in to stay exactly May 30th, two P. M., but I had been going out and in from the 26th, evening, Wednesday, you know, Thursday, Friday and Saturday, and then I stayed in the afternoon.

Q. Now on May 30th, 1937, when you went in, your primary interest as a professional man was surgery, is that correct?

A. You mean inside the mill or outside the mill?

Q. Outside and inside.

A. No, I wouldn't say primarily surgery inside the mill. When I am in the mill I am doing general work, some welfare work even.

Q. But I mean your general interest is in the field of surgery, and hadn't been changed by the fact that there was a strike?

A. Oh no.

Q. And wasn't changed by the fact that you went into the mill?

A. No, sir.

Q. Your general interest in surgery persisted?

A. Yes, sir.

Q. And the fact that a strike was called, that doesn't change your profession particularly in the field of surgery?

A. No sir, but there was a cessation of it, however, for about twenty-six days.

Q. There was a cessation?

A. Of surgery.

Q. That is what I want to get—

TRIAL EXAMINER LINDSAY: Let's not have any laughing in the room. You better come over here and sit somewhere else.

Q. You testified about shower baths in the plant, is that correct?

A. Yes, sir.

Q. And you testified that they provided the proper privacy?

A. Yes, sir.

Q. And you testified that they were curtained with heavy canvas?

A. Yes, sir.

Q. How many shower baths did you inspect?

A. I think two, if my memory serves me right. I think two in that department where the women are, and they had several other shower baths, one in the main office in the cellar and several in the hot mills. The old shower baths are still there, but I refer to the two shower baths for the girls.

Q. That is, your testimony was limited to the two shower baths for the women?

A. Yes, sir.

Q. Now did both of them provide the proper privacy?

A. I would say "yes."

Q. And both of them were curtained with heavy canvas?

A. Yes, sir.

Q. Do you know what type of shower bath they were?

A. No, I don't.

Q. You don't know whether they were needle shower or any other kind?

A. No, sir.

Q. You didn't come that close to the shower baths?

A. No.

Q. Well, how close did you come in making your inspection of the shower baths?

A. Just passed by the canvas and there was no one in the bath, of course; the water wasn't turned on and we saw to it that it was clean and wholesome and supplies were handy.

Q. You say there was no one in the shower bath?

A. No, not when I was passing.

Q. And the curtain was pulled back, or was it open?

A. The curtain was closed.

Q. This heavy canvas curtain you testified to was closed at the time you inspected it?

A. Yes, sir.

Q. But you did observe that it was a heavy canvas curtain?

A. Yes sir. The superintendent of that department, a woman, was with us demonstrating everything, every time we went she was along.

Q. She demonstrated—, you say she demonstrated everything as you went along?

A. Yes, showed us the shower baths.

Q. And what did her demonstration consist of in connection with the shower baths?

A. Just pulling back the canvas and letting us see that it was clean inside and they had soap, each girl had her own towel.

Q. As you approached the shower baths—, there was two of them there?

A. Yes, sir.

Q. As you approached the first one, was the canvas pulled, spread out?

A. Closed. I think they were always closed.

Q. And the woman who accompanied you, she pulled out the canvas?

A. Yes, sir.

Q. And then did she pull it back again?

A. I suppose it went back again of its own weight.

Q. That is, she pulled it out, this heavy canvas?

A. Yes, sir.

Q. And it went back of its own weight?

A. Yes, sir.

Q. How close did you come to the canvas as you inspected it?

A. Just about like this, brushed alongside of it.

Q. Felt it with your hands?

A. Yes.

Q. And the result of the feeling with your hand, you testified it was a heavy canvas, is that correct?

A. Yes, you could see it was heavy when it was opened, too; the way canvas folds you can tell whether it is heavy or light canvas.

Q. About how long did she hold the canvas open?

A. A moment.

Q. Just a moment?

A. Yes, sir.

Q. We are now, of course, confining ourselves to the first shower bath; there were two that you actually inspected, is that correct?

A. Yes, sir.

Q. And what else did the woman do who demonstrated everything show you in connection with the first shower bath?

A. Just opened up the canvas and showed us that it was cleaned after every girl that used it, she cleaned it up.

Q. You mean she told you that; she didn't show you that?

A. She told us that.

Q. She told you that it was cleaned up after everyone took a shower?

A. Yes, sir.

Q. Now is there a tub there also or just a shower bath?

A. There is no tub there, these baths were installed after the strike started.

Q. And these shower baths have tile floor?

A. I don't think they did, no, they didn't have tile floor.

Q. What kind of floor did they have?

A. I don't recollect, I don't know.

Q. Was it a portable shower or permanent shower?

A. It was built for the occasion and made permanent; in fact, I think it is still up, but as to the tile, I don't know what material it is, I didn't see that.

Q. Now this shower was in a room?

A. No, it was just off the room, between the sleeper where the girls had a sleeper and their rest room, it led right out from the rest room.

Q. Is this on the train or off the train?

A. Oh no, it is right off the rest room where the girls were sleeping.

Q. That is, in one of the buildings?

A. Yes, sir.

Q. Now you testified there were two shower baths?

A. Yes, sir.

Q. And that this woman took you around and demonstrated it to you?

A. Yes, sir.

Q. When you came to the second shower bath, did you also run your hand along the canvas?

A. Yes, sir.

Q. And from that you determined it was a heavy curtain canvas?

A. Yes, sir.

Q. And did you also—, I mean, what else did you do in connection with your inspection of that shower?

A. That was all of the shower bath, it wasn't really the purpose of investigating minutely.

Q. I am not interested in your statement of purpose, I am just interested in your statement of what you did, and I understand that you are primarily interested in surgery. You have stated that for the record. Now you went around to the second shower bath; how long did you stay there?

A. Just passed by very quickly.

Q. Did you spend as much time at the second shower bath as you did at the first?

A. That's no longer than we had to because that wasn't—, we weren't spending time.

Q. Don't tell me it isn't your purpose. I know you are interested in surgery, but you had to inspect shower baths; how long did you stay at the second shower bath?

A. Perhaps just passed by, perhaps didn't stop.

Q. You say perhaps; tell me what you actually did?

A. I don't remember, I think we stopped at the first and not at the second.

Q. You stopped at the first and didn't at the second. Do you remember how long you stopped at the first?

A. Oh, perhaps a minute.

Q. About a minute? And did you have a conversation with the woman who was demonstrating everything as you were standing?

A. Yes, sir.

Q. Let me finish my question, please. Did you have a conversation with the woman who was demonstrating everything, as you were standing in front of the first shower?

A. We didn't ask her any questions, we didn't converse with her, no sir.

Q. Did she make any statements to you?

A. I don't recall it.

Q. Well, do you recall whether anything was said at that time, or whether there was absolute silence?

A. I do not remember.

Q. Are you saying now that when you stood in front of Number 1 shower, we will call it Number 1 shower, that you had no conversation with anyone at that time?

A. Just this young lady who was demonstrating it to us, she opened the—, perhaps I would state "it is all right" or something like that; we weren't there to converse with her, we were inspecting it.

Q. I am not interested what you were there for, so far as conversation, I am asking you what happened. Do you recall whether or not she said anything to you?

A. I don't recall it now.

Q. And you don't recall whether you said anything to her?

A. No, sir.

Q. Do you recall that it was a heavy curtained shower?

A. Yes, sir.

Q. Now then, you went on to the second shower and you didn't stop off as you inspected that?

A. No, sir.

Q. Just walked by? It also had a heavy curtain shower?

A. Yes, sir.

Q. Did you have any conversation with the woman as you were passing by?

A. I do not remember.

Q. Don't recall?

A. No, sir.

Q. Now, you testified about Frigidaires, said they were working?

A. Well, the meat in them was kept cool, that is the extent to what they were working, they were in order.

Q. How many Frigidaires did you inspect?

A. I can't tell exactly, I think about three, one for the hot mill, one for the open hearth and one for the main office cafeteria.

Q. Your inspection of these Frigidaires had no relationship with your interest in surgery?

A. Not at all, but I was employed by the mill at this moment to take care of those things.

Q. And you inspected Frigidaires?

A. Yes, sir. That is, that inspection, it was more minute when the Board of Health was down inspecting it. We just accompanied him and he was doing the inspecting.

Q. Who are you referring to?

A. Dr. Connell, he is the County Board of Health Superintendent.

Q. Is he the gentleman you refer to as having invited into the mill?

A. Yes, sir.

Q. And I forget what else you testified to at that time; you say you invited him in and he had lunch with you?

A. Yes, sir.

Q. That is, it was at your request that he came there?

A. Oh no, it was not at my request that he came.

Q. Let me get you straight. My recollection is, and you can correct me if I am wrong, that there were complaints and criticisms in the community about what was happening in the plant, and you invited him to see something or other that was going on, is that correct?

A. No, he called up and told me about the complaints, and at his suggestion only, that I invited him down to make a personal tour of the plant; and incidentally, because he came—,

Q. What's that?

A. Because he came near the noon hour I had him

stay for lunch, there was no intention of having him come at that moment.

Q. I am only interested in finding out, Dr. Thomas, whether you invited him into the plant, and I understand you did.

A. I invited him down after he told me about this complaint but I hadn't called him at first and asked him to come down; it was on his suggestion.

Q. Does he generally inspect the plant?

A. He tends to the health of the County.

Q. What is that?

A. He tends to the health of the County.

Q. I am asking whether or not it is his practice, in the general course of his business, to inspect the plant?

A. I would say yes sir, in the County.

Q. And when was the time previous to your invitation to him that he actually inspected the plant?

A. Never before.

Q. Never before?

A. No, sir, to my knowledge.

Q. How long have you worked for Republic?

A. Well, for Trumbull since 1913, and ever since for Republic whenever they took it over, I think along about '28, or maybe before that.

Q. Do I understand you to say, in the general course of his business, he would inspect the plant or not?

A. No, I think he only inspects those places on requests by somebody, it would fall under the sanitary policeman of the City of Warren, whose business it is to inspect all those places, not the physician who is the City health doctor. He is Dr. Knappenberger, but the County has a different set-up.

Q. (By Mr. Lauter) I am interested in knowing whether or not—

MR. LAUTER: Just read back the last answer.

(Answer read by the Reporter as follows:

"A. No, I think he only inspects those places on request by somebody"—)

MR. LAUTER: Stop right there.

Q. (By Mr. Lauter) Now, is that correct, that he only inspects these places on the request by somebody?

A. I think so, because the County does not have any of those places.

Q. I am asking you whether or not that is correct.

A. I think so, yes, sir.

Q. That he inspects the places on the request of somebody?

A. Yes, sir.

Q. And that you did invite him to inspect the Republic?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. I am reading to you from the Respondent's Exhibit 37 and I want to ask you whether or not this statement contained in the Exhibit is correct: "Doctor Connell said the inspection was made by him merely in line with his general duties, and at his own instigation and without request from outside sources." Is that correct?

A. He told—

Q. Now, is that correct? Just answer.

A. That is not correct.

Q. That is not correct?

A. No, sir.

Q. That is all. Now, you inspected a number of frigidaires?

A. Yes, sir.

Q. How many did you say you inspected?

A. I remember three. There are three frigidaires that I know of.

Q. Do you know what the makes of those frigidaires are?

A. No, I don't.

Q. You don't know the makes?

A. No, sir.

Q. Are they white enamel frigidaires?

A. One is. I think the one up in the cafeteria is, but I do not recall the other two because I had occasion to go into the cafeteria of the main office, the frigidaire, passing by there, because we ate there, often frequented that, but the other two, I don't know.

Q. Where—

A. In the cafeteria frigidaire, that is the one where the office men ate, clerks and so on.

Q. Is that where you ate?

A. Yes, sir.

Q. All the time that you were in the plant, except on tours?

A. When we went to the other restaurants to eat. Tested out the meals.

Q. You ate with the office clerks and who else?

A. Well, the clerks and—really, the men who are easily accessible to the upper restaurant, the men in the main office.

Q. Tell me what their capacity was in the plant.

A. Well, of course, during the strike there was a good many clerks who did the other work.

Q. Now—

A. Like waiting on table.

Q. Do you know or don't you know whether they were generally clerks, white collar workers?

A. They were mixed up.

Q. Were there manual laborers?

A. Oh, many.

Q. Eating in the same restaurant?

A. Manual laborers, in overalls eating up there, yes, sir.

Q. You say you inspected that frigidaire?

A. Yes, sir.

Q. The frigidaire that took care of that?

A. Yes, sir.

Q. Eating establishment? Can you remember that that was made of—a white enameled—

A. Yes, sir. The outside is white enamel.

Q. You don't remember the make of it?

A. No, sir.

Q. Is that an electric frigidaire?

A. I imagine it is, yes, sir.

Q. Well, you didn't inspect it?

A. I don't know surely, no.

Q. I say, you are speculating as to whether or not it was electricity or gas?

A. I don't know.

Q. Do you know the size of the frigidaire?

A. No, I don't know the size. It contained a lot of goods that were stored there for usage.

Q. And these other frigidaires, you say there two others that you inspected?

A. Yes, sir.

Q. Do you remember what makes they were?

A. No, sir.

Q. Do you remember whether they were made of white enamel?

A. I don't remember.

Q. Do you remember the size of them?

A. I don't remember.

Q. Do you remember whether or not they were electricity or gas?

A. I don't know.

Q. Do you know where they were located?

A. Sir?

Q. Do you know where they are located?

A. I said one was located in the hot mill department; the other one was in the open hearth department.

Q. Now, you didn't get any chance to practice surgery in the plant during your stay in there, did you?

A. Oh, yes. Yes, I had three or four major operations I went out to do.

Q. No, I am talking about the plant?

A. Oh, no, we didn't do any major surgery in the plant.

Q. Well, you didn't have an opportunity to do any surgery, did you?

A. Yes, we had some lacerations and crushed fingers and things like that; minor surgery; I would call it.

Q. Is the accident ratio unusually high for Warren plant?

A. I don't believe it is.

Q. Well—

A. Compared—

Q. Do you know how it compares with the other Republic plants?

A. I think it is—it has the next to the best record, the last four months, I think, of any of them.

Q. What would you say about the last four years?

A. I don't know.

Q. Have you ever made a check, to find out?

A. I have seen the records numbers of times but I don't remember. I know we have been well up to the top of the list.

Q. During the last four years?

A. Yes, sir.

Q. Accidents?

A. Yes, sir.

Q. Now, you testified that your chief business was to take care of the social set-up in the plant?

A. During the strike it was. Just with the strike.

Q. Who told you that that was your chief business?

A. Mr. McClain. He is the secretary of internal—industrial relations at the plant.

Q. And he gave you those instructions?

A. With other men. I was simply a party to the committee.

Q. And you arranged for the church services?

A. We arranged the church services. I didn't arrange for the pictures.

Q. You what?

A. The picture show—we had movies brought in. I think a fellow named Job took care of that.

Q. But you arranged for inspecting the restaurants and shower baths, to see whether the frigidaires were working?

A. No, sir I didn't "arrange" for the inspection of those.

Q. Well, you did inspect them?

A. With Mr. McClain and Mr. Dye.

Q. But you arranged the entertainment? Took care of the church services?

A. Helped to, yes, sir.

Q. A good many things not directly connected with your interest in surgery, is that correct?

A. Of course, why certainly.

Redirect Examination

Q. (By Mr. Smith) Doctor, I show you this newspaper article that is in Respondent's Exhibit No. 37, and I will ask you to state whether or not a part of that article shows it is a quotation from the Doctor, and whether or not a part of the article is the statement of the Reporter who wrote the article?

A. There are quotation marks.

MR. LAUTER: Well, just one second, now. I object to that question and move that as much as the answer as has been given be stricken on the ground that

the exhibit is the best evidence as to what it purports to show.

MR. SMITH: All right, now, I will—

MR. LAUTER: I understand you are withdrawing your question?

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception.

MR. LAUTER: If you are withdrawing the question, I will withdraw my objection.

MR. SMITH: No.

TRIAL EXAMINER LINDSAY: Let me see it.

Q. (By Mr. Smith) In the newspaper article which is Respondent's Exhibit 37, I direct your attention to the fact that part of it is in quotation lines and part is not?

A. Yes, sir.

Q. And I ask you whether or not the sentence that Mr. Lauter called to your attention, that "Doctor Connell said the inspection was made by him merely in line with his general duties, at his own instigation without any request from outside sources"—whether that is in quotations or not?

MR. LAUTER: Well, now, I will object to that question on the same ground that I objected to the previous question. That is, that the exhibit is the best evidence of what it purports to show.

TRIAL EXAMINER LINDSAY: Oh, well—

MR. LAUTER: Surely counsel for the company is not contending that the Trial Examiner or the Board cannot read a newspaper and see as well as Doctor Thomas, whether the remark is in quotation marks or not.

MR. SMITH: I hope, your Honor—I want to speak to you instead of to Mr. Lauter, because I do not really believe that it is necessary for me to receive instructions from Mr. Lauter about how I conduct my side of this lawsuit.

TRIAL EXAMINER LINDSAY: Well, now, let's —the objection is sustained. Let the record show an exception.

MR. SMITH: I think that—

TRIAL EXAMINER LINDSAY: We will surely be able to understand whether it is or is not a quotation.

MR. SMITH: I had understood that you had overruled the objection, first.

TRIAL EXAMINER LINDSAY: Well, I changed my ruling.

MR. SMITH: I see

TRIAL EXAMINER LINDSAY: I hadn't finished my ruling on it.

Q. (By Mr. Smith) Now, something has been said to you, Doctor, in regard to the ash boxes or the refrigerators that you inspected. What is the extent of this plant, down there, Doctor, as to the length of it?

A. Oh, I would say two miles and a half.

Q. Now, were the restaurants in different parts of this plant?

A. There are four or five, in regular times, I think.

Q. And what was the purpose of having these restaurants at different parts of the plant?

A. Well, to make it so that the food can be transmitted right to the tables, without having to ride around or be transported in taking the time—its accessibility of the frigidaires to the place where they are served.

Q. And also does the location of the dining rooms have any connection with the accessibility of the employees to the dining room?

A. The dining rooms are so located that they can accommodate more employees than otherwise, if they were scattered around. It is a nucleus.

Q. Yes, and you, in your inspections, did you go to these different dining rooms and examine them?

A. Yes, sir.

Q. And did you have occasion, Doctor, at any times, to eat in any other dining room?

A. A number of times.

Q. —than the one where—

A. Yes, sir.

Q. —what would be those occasions?

A. Well, I would say twice a week Mr. McClain and Mr. Dye and I would meet and eat in the different places just to—for one thing, it was the sociability of it, to let the fellows know we were with them, we were just common with them.

Q. Yes.

A. Set-up.

Q. About how many people were in this plant, Doctor?

A. Saturday there was 2300 and it fluctuated; a little less, and then it went up to 2700 when the gates were opened.

MR. LAUTER: I object to the question and ask that the answer be stricken unless the witness has personal knowledge of the figures he is testifying here about.

JUDGE SMITH: Well, I wasn't asking for accurate information. I asked him approximately.

MR. LAUTER: Well, personal knowledge means approximate number, naturally.

TRIAL EXAMINER LINDSAY: I will overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

JUDGE SMITH: All right. That is all.

MR. LAUTER: That is all.

JUDGE SMITH: I have the photostatic copies here of that complaint at Warren that were offered this morning that I would like to have exchanged for the originals, your Honor.

TRIAL EXAMINER LINDSAY: Do I understand that you are of the opinion that the originals were offered in evidence?

JUDGE SMITH: I understood so. With the understanding that photostatic copies would be substituted.

TRIAL EXAMINER LINDSAY: My statement was this: That if you so desired to offer them in evidence, and if they were so received, that the photostatic copies may be made of them and substituted for the exhibit but you never offered the original. I understood if that was done that Mr. Lauter would have the photostatic copies made.

JUDGE SMITH: Well then, I wish to introduce them as the exhibit of the Respondent. Will you mark this Respondent's Exhibit 38-A and B for identification and Respondent's Exhibit 39-A and B for identification?

(Thereupon the documents above referred to were marked Respondent's Exhibits 38-A and B and Respondent's Exhibits 39-A and B for identification.)

JUDGE SMITH: Now, these having been marked for identification, I desire to offer in evidence Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B may be received in evidence. They are received with the understanding that those are the photostatic copies?

JUDGE SMITH: Oh, yes. We are offering Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B in connection with the testimony of Mr. Carney, the Clerk of the Municipal Court of the City of Youngstown, Ohio.

TRIAL EXAMINER LINDSAY: However, that is not Mr. Carney.

JUDGE SMITH: Yes, it is; Martin J. Carney.

TRIAL EXAMINER LINDSAY: Yes, that is right.

(Thereupon the documents heretofore marked "Respondent's Exhibit 38-A and B and Respondent's Exhibit 39-A and B" were received in evidence.)

TRIAL EXAMINER LINDSAY: We will adjourn until 7:30 o'clock this evening.

(Whereupon at 4:50 o'clock p. m. September 21st, 1937, an adjournment was taken to 7:30 o'clock p. m., September 21, 1937.)

AFTER RECESS

(Whereupon the hearing was resumed, pursuant to recess, at 7:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

CHESTER CROSBY

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) What is your name, please?
A. Chester Crosby.
Q. Where do you live?
A. 24 North Hazelwood Apartment 4.
Q. What is your business?
A. You mean my occupation?
Q. Yes, sir.
A. Ladle craneman at the Republic Steel.

Q. How long have you worked for Republic?
A. I have been there approximately six years.
Q. Did you sign a petition to go back to work?
A. I did.
Q. After the strike was called?
A. I did.
Q. Where did you sign that petition?
A. At 212 Dollar Bank Building.
Q. State whether or not you signed that petition of your own free will.
A. I did.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. The objection is sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. State how you came to sign the petition to return to work.
A. Well, I thought the thing over in my own mind—

MR. LAUTER: I move that the remarks of the witness about what he thought in his own mind be stricken from the record.

MR. DAY: I think it should be in. I asked him how he came to do it.

MR. LAUTER: Well, I will withdraw my objection.

MR. DAY: All right.

Q. Go ahead, please.
A. I thought the thing over in my own mind because I went through—I went through two steel strikes in this town prior to that and I figured this one was going the same way, and I wanted to go to work.

MR. LAUTER: I object to the answer and ask that it be stricken from the record.

MR. DAY: I asked him that same question; I

asked him how he came to do it and that is his answer.

TRIAL EXAMINER LINDSAY: Well, that is an absolute conclusion.

MR. DAY: I think all of that is on the same question we had the other day. I think he has a right to give his conclusion as to his mental reaction in this kind of a situation.

MR. LAUTER: I respectfully submit, Mr. Trial Examiner, that the mental observations and ratiocinations are not involved in this case. What he actually did; or what someone said to him in connection with him about going back to work is relevant.

TRIAL EXAMINER LINDSAY: Yes, I will sustain the objection. Let the record show an exception.

MR. DAY: Exception.

Q. How did you come to do it?

A. I wanted to go to work.

MR. DAY: All right.

Q. State whether or not you were influenced in any manner whatsoever in the signing of that petition to return to work by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. LAUTER: Object to the question and ask that the answer be stricken out.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken out.

MR. DAY: Exception.

Q. Do you remember when the strike was called on May 26th, last?

A. I do.

Q. State whether or not you wished to go out on strike.

A. I didn't.

Q. Did you sign an application for membership in the Independent Federation of Republic Employees?

MR. LAUTER: Just one second, please. With respect to the last question, I want to object to it on the ground that it is incompetent, irrelevant and immaterial and I ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Will you read that last question and answer?

(The last question and answer were read.)

MR. DAY: That is admitted.

TRIAL EXAMINER LINDSAY: All right. Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. Did you sign an application for membership in the Independent Federation of Republic Employees?

A. I did.

Q. Where did you sign the application?

A. At 606 Dollar Bank Building.

Q. State whether or not anybody asked you to sign the application.

A. J. C. Smith.

Q. Who is he?

A. He is a fellow worker in the mill.

Q. State whether or not you signed that application for membership in the Independent Federation of Republic Employees of your own free will.

A. I did.

MR. LAUTER: Object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. State how you came to sign the application for

membership in the Independent Federation of Republic Employees.

A. Well, I felt that if the Wagner Act—the Employees Representative Plan was out, and the C. I. O. was out, so far as I was concerned, we thought that we wanted some representation in the mill.

MR. LAUTER: I move that the remarks of the witness be stricken from the record.

MR. DAY: I think it ought to stay in; I think we are entitled to that.

TRIAL EXAMINER LINDSAY: Strike that whole answer. Ask the question again.

MR. DAY: Exception.

Q. Now, don't tell your mental observations. How did you come to sign an application card for membership in the Independent Federation of Republic Employees?

A. Because I wanted some representation in the mill.

Q. State whether or not anybody asked you to sign the application card for membership in the Independent Federation of Republic Employees.

A. They didn't.

Q. State whether or not in the signing of the application card for membership in the Independent Federation of Republic Employees at Youngstown you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.

MR. DAY: Exception. That is all.

Cross Examination

Q. (By Mr. Lauter) Your occupation is that of ladle craneman?

A. Yes, sir.

Q. How long have you worked for Republic?

A. I have been there about six years now, close to it this time.

Q. You signed a petition to "Back-to-Work" movement at Room 212 Dollar Bank Building, is that correct?

A. That is correct.

Q. And you say Mr. J. L. Smith asked you to sign it?

A. Yes, sir.

Q. Did he ask you to sign it up in the building there?

A. He did, yes, sir. I went up there, I heard it was there and I went up there.

Q. Who told you he was there?

A. I just heard them talking on the street about if you want to go to work, go up there and find out; that's what I done.

Q. And who was your foreman?

A. My foreman? Johnnie Graft is the general foreman, Charlie Ritchey is my sub-foreman.

Q. Before you went up to sign the "Back-to-Work" petition, did any of those men speak to you?

A. They did not because they were in the mill and I was on the outside.

Q. And you joined the Independent Federation?

A. Yes, sir.

Q. And you signed the card?

A. Yes, sir.

Q. You paid dues?

A. Yes, sir.

Q. Attended meetings?

A. Yes, sir.

Q. Did you attend the meeting at Indianola?

A. Yes, sir.

Q. Now was that the meeting in which they sought to combine the Employees' Representation Plan with the Independent Federation?

A. I don't know nothing about that, I wasn't at that meeting.

Q. Weren't you at the Indianola meeting?

A. Not every one of them. They had different meetings there.

Q. Had you been to any one of those meetings in which they sought to combine the Employees' Representation Plan with the Independent Federation?

A. No sir, I was not.

Q. Did Mr. J. L. Smith ever tell you that that was the purpose of the Independent Federation, to combine itself with the Employees' Representation Plan?

A. He did not, no sir .

Q. If you knew that that was the purpose of the new organization, would you have joined it?

MR. DAY: I object.

A. Well, I don't know whether I would—.

TRIAL EXAMINER LINDSAY: Just a minute.

THE WITNESS: Pardon me.

MR. LAUTER: I'll withdraw the question.

Q. (By Mr. Lauter) Now you say you wanted some representation, is that correct?

A. That's it.

Q. Did you have representation under the Employees' Representation Plan?

A. We did, yes sir.

Q. And that was representation of the employees in the plant?

A. Yes, sir.

Q. And you wanted the same kind of representation under the Independent Federation?

A. I don't know as if I would say that, but the representation that I ever got there suited me very well.

Q. I am sorry, I didn't hear your answer.

A. I say I don't know as I would say that, but the representation I got there, under the Employees' Representative Plan suited me very good.

Q. And Independent Federation Representation Plan, also suited you?

A. Suits me, yes sir.

TRIAL EXAMINER LINDSAY: May I interrupt just a minute? Due to the fact that Mr. Lauter withdrew his question, do you wish to withdraw your objection?

MR. DAY: Oh sure.

MR. LAUTER: That is all.

MR. DAY: That is all. Thank you.

(Witness excused.)

WILLARD THOMAS

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Will you state your name, please?

A. William J. Thomas.

Q. Where do you live?

A. 524 West Evergreen.

Q. And what do you do?

A. I am an analyst.

Q. Of what Company?

A. Republic Steel Corporation.

Q. How long have you worked for Republic?

A. Twenty-two years.

Q. Did you sign a petition to return to work at the Youngstown plant of Republic after the strike was called?

A. I did.

Q. State whether or not you signed that petition of your own free will?

A. I did.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, the answer is stricken and let the record show an exception.

Q. State how you came to sign the petition to go back to work?

A. One of my fellow employees came out to our house and talked to me, and I decided that I wanted to go back to work, and I signed the petition.

Q. State whether or not you were influenced in any manner whatsoever in signing this petition to return to work, by anything that was said or done by Republic Steel Corporation or any of its officers or its agents?

A. No, I wasn't.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained and the answer is stricken, and let the record show an exception.

Q. Do you remember when the strike was called, on the 26th of last May here in Youngstown?

A. I do.

Q. State whether or not you wished to go out on a strike?

A. I did not.

MR. LAUTER: Object to the question on the grounds of incompetent, irrelevant and immaterial, move the answer be stricken.

TRIAL EXAMINER LINDSAY: Reserve ruling.

Q. (By Mr. Day) Are you member of the Independent Federation of Republic Employees of Youngstown?

A. I am.

Q. Did you sign an application card for membership in that organization?

A. I did.

Q. Where did you sign it?

A. In the plant.

Q. State how you came to sign the application for membership in the Independent Federation of Republic Employees?

A. I was approached by Mr. Smith and he talked it over with me and asked me if I wouldn't become one of the organizers, to help get the organization going, and I consented to this and I signed the card.

Q. State whether or not you signed that application for membership in the Independent Federation of your own free will?

A. I did.

MR. LAUTER: Object to the question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection sustained and the answer is stricken from the record, and let the record show an exception.

Q. You may state whether or not, in the signing of the application cards for membership in the Independent Federation of Republic Employees, you were influenced to any extent whatsoever by anything said or done by the Republic Steel Corporation or any of its officers or agents?

A. I was not.

MR. DAY: That is all.

MR. LAUTER: I object to that question and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is sustained, the answer is stricken. Let the record show an exception.

Cross Examination

Q. (By Mr. Lauter) You signed a card, Mr. Thomas, in the plant, is that correct?

A. Yes, sir.

Q. Was that on company property?

A. Yes, sir.

Q. Company time?

A. Yes, sir.

Q. Mr. J. L. Smith asked you to become an organizer?

A. Yes, sir.

Q. How long ago did he speak to you about becoming an organizer?

A. Will you state that question again, please?

Q. How long ago did he ask you to become an organizer?

A. Well, I can't say the exact date, but it was about a week after we went back to work.

Q. Do you remember when you went back to work?

A. Yes, sir, it was on a Friday, June 25th.

Q. And about a week later he spoke to you about becoming an organizer?

A. Yes, sir.

Q. Now, that conversation was held in the plant on company time?

A. Yes, sir.

Q. Where, in the plant, was that conversation held?

A. It was held in the lavatory.

Q. How long did that conversation last?

A. Well, I can't just exactly say the time; but about 15 or 20 minutes.

Q. Did Mr. Smith work in the same department with you?

A. No, Mr. Smith works in the electric weld.

Q. Was he speaking to you about becoming an organizer on his own time?

A. No, he wasn't. He was in our department for some

reports and I happened to be the one who made the reports, and he talked to me at that time.

Q. You say "made the reports". Made the reports on what?

A. On some electrodes.

Q. And it was while you were speaking about business affecting the Republic Steel Company that you had a conversation for about 15 or 20 minutes about your becoming an organizer, is that correct?

A. No, I said that that was his business, to come into our plant, was to get the report on these electrodes. And after I handed him the reports, then he asked me if I wouldn't become one of the organizers.

Q. That is what I say in effect, I am asking you whether or not that was during the time that he was conducting business for the Republic Steel Company that he asked you to become an organizer; and you had a conversation of about 15 or 20 minutes?

A. Yes.

Q. Now, you didn't become an organizer, did you?

A. Yes, I did.

Q. You did?

A. Yes, I did.

Q. And that is not a paid organizer?

A. No, sir.

Q. Voluntary organizer?

A. Voluntarily.

Q. What are your duties as organizer for the Independent Federation?

A. Sir?

Q. What are your duties as organizer for the Independent Federation?

A. Well, I talk to the men and I also had the application cards, and I asked them to sign the application cards.

Q. Now, you talk with the men in the plant, is that correct?

A. Yes, sir.

Q. On company time?

A. On some company time, and some on my own.

Q. And do you request them to sign the card, to join the Federation, is that right?

A. Yes, sir.

Q. And during the time that you have asked men in the plant to sign the cards for the Independent Federation, have you ever been observed by any of your superiors?

A. No, sir.

Q. Do you mean that the time you have been spending, that is company time, in signing up men, has not been observed by the company?

A. No, sir.

Q. Not as far as you know, at any rate?

A. Not as far as I know.

Q. What are the dues in the Independent Federation?

A. The dues?

Q. That is correct?

A. 50 cents a month.

Q. And have you held any meetings?

A. Yes, sir, I have attended two.

Q. Where were those meetings held?

A. On Indianola Avenue.

Q. Now, Mr. J. L. Smith, who was temporary chairman, has testified in these proceedings that there was a meeting held for the purpose of combining the employees of the Representation Plan with the Independent Federation. Did you attend that meeting?

A. No, sir.

Q. Did you attend any meetings held in the plant, of the Independent Federation?

A. No, sir.

Q. Did you know that meetings were held by the Independent Federation in the plant?

A. None that I know of.

Q. Do you know about a rally being held at Carpenters' Field?

A. At Carpenters' Field?

Q. That is right.

A. Yes, sir, I knew about that.

Q. Did you attend that?

A. Yes, sir.

Q. That is the public property, isn't it?

A. Yes, sir.

Q. How long did that rally take place?

A. Well, I can't just exactly say, but I think it lasted about an hour and a half.

Q. And that was some time in the latter part of June?

A. No.

Q. Well, was it the early part of May?

A. Just let me think, please.

Q. Just go right ahead and take all the time you need.

A. It was after the strike was called.

Q. Do you recall how long after the strike was called?

A. No, sir, I can't say.

Q. Now, who spoke at the meeting at Carpenters' Field?

A. Well, the only name that I can tell is Mr. Cummings.

Q. Who is Mr. Cummings.

A. He is a man that worked for the Republic Steel Corporation in the machine shop.

Q. Did Mr. Smith speak at that meeting?

A. Mr. Smith?

Q. Yes.

A. I think he opened and closed the meeting; that is all that Mr. Smith talked. I don't quite remember.

Q. Do you remember how long that meeting lasted?

A. About an hour and a half.

Q. Is that the only person you can remember speaking at that meeting is Mr. Cummings?

A. There was two other men I think. I can't quite remember but I don't know their names.

Q. Do you know of any other meetings that were held on Republic property besides the meeting at Carpenters Field?

A. No, that is the only one.

Q. That was the meeting that was held after the strike was called?

A. After the strike was called.

Q. Were you a representative under the old Employees Representation Plan?

A. I was.

Q. Were you a representative elected in 1936?

A. 1936?

Q. Yes.

A. No.

Q. What term did you serve under the old Employees Representation Plan?

A. I served the first two years.

Q. That is, 1933 to 1934 and 1934 to 1935?

A. I can't tell you the exact date and the years but it was the first two years of the Representative Plan.

Q. Was yours a supervisory job in the mill?

A. You mean my job?

Q. Yes.

A. No.

Q. You were an office worker?

A. No, I am an analyst; I work for the laboratory.

Q. What laboratory is that?

A. That is the open hearth laboratory.

Q. What?

A. The open hearth laboratory.

MR. LAUTER: That is all.

MR. DAY: That is all.
(Witness excused.)

HUGH PRITCHARD

a witness called by and on behalf of the Respondent, having been first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Day) Your name is Hugh Pritchard?
A. That is right.
Q. Where do you live?
A. At 22 Main Street, Girard.
Q. What is your business?
A. Analyst.
Q. Working for what company?
A. Republic Steel Corporation.
Q. How long have you worked for Republic Steel Corporation?
A. 25 years.
Q. Did you sign an application to return to work at the Youngstown plant of the Republic Steel Corporation after the strike was called?
A. Yes, sir.
Q. How did you come to sign that application to return to work?
A. I wanted to work.
Q. State whether or not you signed that application of your own free will.
A. I did.
MR. LAUTER: I object to the question and ask that the answer be stricken from the record.
TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken.
Q. State whether or not you were influenced in any

manner whatsoever in the signing of the petition to return to work by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I didn't.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken. Let the record show an exception.

MR. DAY: Exception.

Q. Do you remember when the strike was called at Youngstown on May 26th, I think it was?

A. I do.

Q. State whether or not you wished to go out on strike at that time.

A. I didn't.

MR. LAUTER: Objection to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. Are you a member of the Independent Federation of Republic Employees at Youngstown, Ohio?

A. I am.

Q. Did you sign an application card for membership?

A. I did.

Q. State how you came to sign that application card for membership in that organization.

A. I was approached by a fellow worker.

MR. LAUTER: Object to the question and ask that the answer be stricken out. I am objecting to the question on the ground that it is incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you signed that application for membership in the Union of your own free will.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

MR. DAY: Exception.

Q. State whether or not the signing of that application card for membership in the Independent Federation of Republic Employees you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I was not.

MR. DAY : That is all.

MR. LAUTER: I object to the question and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

MR. LAUTER: That is all.

MR. DAY: Mr. Lauter has suggested that we ought to show in what plant the three men who just have testified worked? They all worked in the Youngstown plant. May the record show that they all worked in the Youngstown plant?

TRIAL EXAMINER LINDSAY: The record may show that the three preceding witnesses worked in the Youngstown plant.

(Witness excused.)

SAM G. DeBLOIS

a witness called by and on behalf of the Respondent, being first duly sworn was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name please?
A. Sam G. DeBlois.
Q. D-e-B-l-o-i-s?
A. Yes, sir.
Q. Where do you live, Mr. DeBlois?
A. 583 West Evergreen.
Q. And what is your business?
A. Carpenter.
Q. And where do you work?
A. Republic Steel Corporation.
Q. How long have you worked for Republic Steel?
A. One year.
Q. In the Youngstown plant?
A. Yes, sir.
Q. Did you sign a petition to return to work at the Youngstown plant of Republic after the strike was called?
A. Yes, sir.

MR. LAUTER: At this time, if you please, Mr. Trial Examiner, I should like to object to any further inquiry along this line that counsel for the Respondent Company. Counsel for the Respondent Company has, and is at this time, asking a series of question similar to the questions that were asked of a number of witnesses who were employed by the Republic Steel Corporation and at its Canton and Massillon plants. I wish the record to show that I have exactly the same objections to offer with respect to the continuation of witnesses testifying with respect to these questions here in Youngstown, as I did have at the time that I offered my objections and made my motions regarding

the Canton and Massillon witnesses, and I respectfully request that I not be required to repeat all of the objections and motions which I made at that time; and counsel for the Company will agree that they apply to this set of witnesses.

MR. DAY: Counsel for the Respondent will be glad to agree that the motions and the grounds for the motions, and what counsel for the Board said at that time, may be considered as having been said at this time, and may so appear in the record.

TRIAL EXAMINER LINDSAY: The objection is sustained. Let the record show an exception. The objection is sustained for the same reason as it was when the same question came up in such hearing at Canton. Let the record show the reasons stated by Mr. Lauter and referred to as becoming a part of this particular phase of the case at Youngstown, is the reason for the sustaining of the objection and let the record show an exception.

MR. DAY: At this time the Respondent advises the Trial Examiner that there are a large number of witnesses, the exact number not as yet ascertained, and which we would like to put into the record at some future time when ascertained.

TRIAL EXAMINER LINDSAY: You mean the number?

MR. DAY: Yes, who are employees of the Respondent at its plant in Youngstown, whom the Respondent now seeks to call as witnesses and to whom the Respondent desires to propound questions heretofore propounded by the Respondent to the witnesses who have already testified, with relation to Youngstown, and such other questions that may be necessary in the individual cases to elicit the facts in connection with the conduct of these witnesses in the matter hereinbefore noted. There may be some witnesses called

on one, and some on two and some on all of the questions.

MR. LAUTER: In view of the statement by Mr. Day, I want to renew my objections and renew the motions which were made in Canton and Massillon, and apply them here with respect to the witnesses that have been introduced and witnesses that Mr. Day proffers in connection with these questions in Youngstown.

TRIAL EXAMINER: The objection is sustained and let the ruling be the same here as it was at Canton, and let the record show an exception.

MR. DAY: At this time I would like, for the record, to show the following as to the witnesses, first, who have been called, and who worked in the Youngstown plant and whose evidence has been, in part excluded.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses each and all signed the Back-to-Work Petitions and the application cards for membership in the Independent Federation of Republic Employees at Youngstown, of their own free will, and without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and that these witnesses did not wish to go on a strike at the time the strike was called, and the Respondent believes that if permitted these witnesses would so testify as to the above.

As I have already indicated, the Respondent now seeks to call as witnesses in this hearing a large number of employees of the Respondent at Youngstown, and to propound to said witnesses the questions heretofore propounded by the Respondent to the witnesses who have already testified, and such other questions as may be necessary in individual cases, to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted.

The Respondent, so far as Youngstown is concerned, may not propound to each and all of the witnesses all three questions, but may propound only one or two of those questions to an individual witness.

The Respondent represents to the Trial Examiner and offers to prove that these witnesses did not wish to go out on a strike but did wish to continue and work at the Youngstown plant of the respondent, signed Back-to-Work petition at Youngstown and application for membership in the Independent Federation of Republic Employees, of their own free will and without being influenced in that regard in any manner whatsoever by anything that was said or done by the respondent, its officers or agents. The respondent believes and represents to the Court that these witnesses, when interrogated as to some or all of the questions suggested, would so testify if permitted by the Trial Examiner.

And Respondent, in connection with its offer of the evidence of these additional witnesses, states that such evidence is admissible, relevant, competent, and material under the issues presented by the complaint and answer in this case, and the evidence introduced by the Labor Board; that the respondent has the right and should have the opportunity to offer this evidence as a part of its defense under the express provisions of the National Labor Act.

The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground. That is all.

TRIAL EXAMINER LINDSAY: That is all, I guess. Did you want to cross examine?

MR. LAUTER: No.

HARRY E. KREY

a witness called by and on behalf of the Respondent, having

been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) State your name, please.

A. Harry E. Krey.

Q. K-r-e-y?

A. Yes, sir.

Q. Where do you live, Mr. Krey?

A. South Tod Avenue, Warren.

Q. What is your business?

A. Service man in the coke sales department.

Q. How long have you worked for the Republic Steel Corporation?

A. Approximately six years.

Q. Do you remember when the strike was called at Warren?

A. Yes, sir.

Q. State whether or not you wished to go out on strike.

A. No, sir.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

Q. Did you sign an application card for membership in the Employees Independent Association?

A. Yes, sir.

Q. State how you came to sign the application card for membership in that organization.

A. It appeared like a good idea for representation.

MR. LAUTER: I object to the question as incom-

petent and irrelevant and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: The objection is overruled. Let the record show an exception.

MR. LAUTER: Exception.

Q. State whether or not you signed that application card for membership in the organization of your own free will.

A. I did.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. Let the record show an exception. The answer is stricken from the record.

Q. State whether or not anybody asked you to sign the application card for membership.

A. No, sir.

Q. State whether or not in the signing of the application card for membership in the Employees Independent Association at Warren, Ohio, you were influenced to any extent whatsoever by anything that was said or done by the Republic Steel Corporation or any of its officers or agents.

A. I wasn't.

MR. DAY: That is all.

MR. LAUTER: I object to the question on the ground that it is incompetent, irrelevant and immaterial and ask that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Objection sustained. The answer is stricken from the record. Let the record show an exception.

MR. DAY: Exception.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Will you read that question and answer?

(The last question and answer were read.)

MR. DAY: That is all.

Cross Examination

Q. (By Mr. Lauter) Mr. Krey, you are an employee of the Republic Steel Corporation?

A. Yes.

MR. LAUTER: That is all.

(Witness excused.)

ALVIN BONAR

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Day) Your name is?

A. Alvin Bonar.

Q. And you live in Warren?

A. Yes, sir.

Q. Where do you work?

A. Republic Steel Corporation.

Q. What plant?

A. Warren plant.

Q. Warren plant? What is your business?

A. I am a weighmaster there.

Q. How long have you worked for Republic?

A. Twelve years.

Q. Do you remember when the strike was called? At the Warren plant of Republic, on 26th of last May?

A. I do.

Q. State whether or not you wished to go out on a strike at that time?

A. I did not.

MR. LAUTER: Object to the question on the ground that it is incompetent, irrelevant and immaterial and move the answer be stricken out.

TRIAL EXAMINER LINDSAY: The objection is sustained, let the record show an exception.

Q. (By Mr. Day) Did you sign an application card for membership in the Employees' Independent Association at Warren?

A. I did.

Q. State how you came to sign that application card for membership?

A. I was approached by a fellow worker, a craneman there.

MR. LAUTER: Objection to the question on the grounds of incompetent, immaterial and irrelevant, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: The objection is overruled, let the record show an exception.

Q. (By Mr. Day) State whether or not you signed your application for membership in the Employees' Independent Association of your own free will?

A. Yes, sir.

MR. LAUTER: Object to the question on the ground of being immaterial, incompetent and irrelevant, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, and let the record show an exception, and the answer is stricken.

Q. (By Mr. Day) State whether or not, in the signing of the application card for membership, in the Employees' Independent Association at Warren, you were influenced to any extent whatsoever by anything that was

said or done by Republic Steel Corporation, or any of its officers or agents?

A. No, sir.

MR. LAUTER: Object to the question as being incompetent, irrelevant and immaterial, and move the answer be stricken.

TRIAL EXAMINER LINDSAY: Objection is sustained, the answer is stricken, let the record show an exception .

MR. DAY: That is all.

MR. LAUTER: That is all.

(Witness excused.)

HENRY GERALD HANNA

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. By Mr. Day) State your name?

A. Henry Gerald Hanna.

Q. Where do you live?

A. 2415 Youngstown Road, Warren, Ohio.

Q. Where do you work?

A. Republic Steel.

Q. What plant?

A. Warren plant.

Q. Do you remember when the strike was called at the Warren plant of Republic on May 26th last?

A. I do.

Q. State whether or not you wished to go on strike?

A. I did not.

MR. LAUTER: Object to the question as being incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Objection sus-

tained; let the record show an exception and the answer is stricken out.

Q. (By Mr. Day) Did you sign an application card for membership in the Employees' Independent Association at Warren?

A. I did.

Q. State how you came to sign the application card for membership in that Association?

A. I wanted representation.

MR. LAUTER: Just one second. If you please, Mr. Trial Examiner, at this time I should like to address the same objections and the same motions which I have made with respect to witnesses who have testified at Canton, Massillon and Youngstown, with respect to the same form questions which have been put to the witnesses there by Mr. Day, and I would like to have for the record, without re-stating each and every objection and motion, the same objections and motions with respect to witnesses who are testifying in respect to Warren, Ohio, and again I request that I not be asked to repeat all of the objections and motions with respect to the Warren witnesses and that counsel for the Company stipulate in respect to that fact.

MR. DAY: Well, we will be glad to agree that what counsel for the Labor Board wishes in the record in regard to that stated, may be there without repetition. Mr. Jones suggested that I, in talking about Warren plant, perhaps I should state Warren and Niles district.

MR. LAUTER: That is all right. There is no objection to that.

MR. DAY: May I have that correction then, as to these witnesses?

TRIAL EXAMINER LINDSAY: Yes, and the objection is sustained, and the ruling is the same,

based on the same reasons made by counsel for the Board at Canton, Massillon and Youngstown.

MR. DAY: At this time the Respondent advises the Court that there are a large number of witnesses employees, of the Respondent Company, in the Warren-Niles district, whom the Respondent now seeks to call as witnesses, and to whom the Respondent desires to propound the questions heretofore propounded by respondent to the witnesses who have already testified with relation to the Warren-Niles district, and such other questions which may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters heretofore noted. The Respondent states to the Trial Examiner that some of the questions may be propounded to some of these witnesses and some to others not necessarily all to all witnesses, and we cannot state the number now of witnesses but we will do that with the Trial Examiner's permission when we make the necessary checking up and research.

MR. LAUTER: In view of Mr. Day's statement I want to renew my motions and objections to this line of inquiry, and say for the record at this time, in respect to the Warren and Niles district, the same objections and motions which I have addressed to the Canton, Massillon and Youngstown employees that have been on the stand, namely that it is incompetent, irrelevant and immaterial, is outside the scope of the issues in this case, that the testimony of great numbers of witnesses will only be accumulative.

TRIAL EXAMINER LINDSAY: Objection is sustained for the reason stated by counsel for the Board, and let the record show an exception.

MR. DAY: And I think, in sustaining Mr. Lauter's motion originally, you gave me an exception, is that right?

TRIAL EXAMINER LINDSAY: Oh, yes.

MR. DAY: Thank you.

TRIAL EXAMINER LINDSAY: At least I think I did. If I didn't—

MR. DAY: Well, if you didn't, we will put it in?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: As to the Warren and Niles district witnesses, as to the witnesses who have testified and whose evidence has been in part excluded, the respondent represents to the Trial Examiner, and offers to prove that these witnesses, each and all signed, the application cards for membership in the Independent—Employees Independent Association of their own free will without being influenced in that regard to any extent whatsoever by the Respondent or any of its officers and agents, and that each and all of these witnesses did not wish to go out on a strike when a strike was called.

Respondent believes that if permitted these witnesses would so testify as to the above.

As already indicated, the Respondent now seeks to call as witnesses in this hearing a large number of employees of the Respondent at its plant in the Warren and Niles district, and to propound to said witnesses all or some of the questions heretofore propounded by the Respondent to the witnesses who have already testified, and such other questions as may be necessary in individual cases to elicit the facts in connection with the conduct of these witnesses in the matters hereinbefore noted.

And the Respondent represents to the Trial Examiner and offers to prove that these witnesses did not want to go on a strike and the plants in the Warren and Niles district, and that they signed application cards for membership in the Employees Independent Association of their own free will and without being

influenced in that regard in any manner whatsoever by anything that was said or done by the Respondent, its officers and agents.

Respondent believes and represents to the Court that these witnesses would so testify if permitted by the Trial Examiner.

The Respondent, in connection with this offer of the evidence of these witnesses, states that this evidence is admissible, relevant, competent, and material under the issues presented by the complaint and answer in this case, and the evidence introduced by the Labor Board, and that the Respondent has a right and should have the opportunity to offer this evidence as a part of its defense, under the express provisions of the National Labor Relations Act. The Respondent also believes that this evidence is not cumulative in character and subject to objection upon that ground. That is all.

MR. DAY: Your Honor will remember that you have excluded the evidence of witnesses sought to be offered by the Respondent with relation to certain acts of alleged violence and alleged unlawful conduct on the part of the pickets and strikers and members of the C. I. O. We have in addition to the evidence of Captain Richmond who was called to the witness stand, the evidence of approximately 75 witnesses whom we wish to offer upon the same phase of the case: That is, the violence and unlawful conduct on the part of the pickets, strikers, and members of the C. I. O. I wish to state at this time that this evidence will fall within the ruling which the Trial Examiner has announced with relation to the evidence of Captain Richmond, and that none of the witnesses whom we seek to call will be able to identify as a participant in any of the alleged unlawful acts or conduct any person who is

named in the complaint in this case as having been discriminated against.

We believe this evidence is admissible for the reasons which we have stated in the record, and —we have stated it quite fully—both Judge Smith and myself, last Saturday morning. We now ask at this time that we be permitted to offer these witnesses by placing them one at a time on the witness stand, and by propounding to them, one at a time, questions, and by making with relation to them individually and one at a time offers to prove—separate offers to prove if their evidence is excluded.

MR. LAUTER: If it please, Mr. Trial Examiner, in order that the testimony be clear upon the record, I wish to restate for the record the fact that the narrow construction placed both upon my objection to the type of testimony Mr. Day is seeking to offer and the ruling which you have made with respect to my objection places incorrectly in the record the position of the counsel for the Board.

It is not my intention to object to the testimony by Mr. Day showing acts of violence unless those acts of violence are connected up with the discriminatory discharge or discriminatory refusal to reinstate alleged in the complaint. Originally I stated in my objection to an offer of proof on the acts of violence that it be either connected up with someone specifically mentioned in the complaint or that it be connected up with one of the issues raised by the complaint in the answer in this case.

Now my original objection as I say was much broader than Mr. Day stated at that time, and I believe your ruling at that time was broader. So there may be no confusion at this point, and that the record may be clear, I am not objecting to the introduction of any acts of violence which are connected up with the issues

in this case. Now what the issues in this case are are clear to Mr. Day, myself and the Trial Examiner.

TRIAL EXAMINER LINDSAY: Well, I will deny the right to make separate offers to prove on each individual witness—

MR. DAY: Will you note an exception?

TRIAL EXAMINER LINDSAY: The same purpose can be served by filing a general offer to prove covering all of the facts which you would attempt to show by individual offers of proof; and therefore there would be no purpose in taking up a considerable time on the individual offers of proof. The Respondent will be granted the right to file a general offer of proof covering those particular facts in issue as to violence.

MR. DAY: Then I take it, if the Court please, that the Respondent's request to put these witnesses on one at a time and to put to them the questions one at a time is denied by the Court. May we have an exception?

TRIAL EXAMINER LINDSAY: That is the ruling and you may have an exception.

MR. DAY: Now, we have in separation individual offers to prove as to a great many of these witnesses, which we are prepared shortly to submit to the Court. However, we of course reserving our exception to the ruling of the Court we will, just as soon as is practicable under all of the circumstances, prepare a general offer to prove.

We would like perhaps to hand in to the Court at the same time our individual offers.

TRIAL EXAMINER LINDSAY: Now, there is one other question. An application has been made for some subpoenas to be served here on witnesses at Youngstown. As yet I have not received those. However, my understanding is that they cover the same facts pertaining to—or rather cover the facts pertain-

ing to the same issue, which is violence. And will it be agreeable, if those subpoenas are issued, to have those witnesses also appear at Cleveland? I think there are only four.

MR. DAY: This is outside of the record.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Now, I ask Mr. Day if he is willing without objecting, to take the matter of issuing the subpoenas or serving them, rather, and having the witnesses come to Cleveland, if that is the thing decided upon?

MR. DAY: Certainly, I am willing to do it. I will raise no question about it.

MR. SMITH: Now, your Honor, there is an exhibit that was refused.

TRIAL EXAMINER LINDSAY: Yes, there is one exhibit that has not been received.

MR. SMITH: Yes.

TRIAL EXAMINER LINDSAY: And send that right along and I will rule on it the first thing when I get up there.

MR. SMITH: All right. (Referring to Respondent's Exhibit 36.) Now, there are three exhibits here that were introduced, that were rejected.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: Now, may these exhibits that were offered but rejected, be attached or taken in connection with the record, other than the official record, that we receive, showing the introduction, and that they were refused, and then have these connected with that record?

MR. LAUTER: I should think the Trial Examiner prefers it to be kept, as is customary, by counsel for the company. An unreceived offer is generally kept by the company.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: On this we want it, though, so that it will be that we are saving the question as to the introduction of them.

TRIAL EXAMINER LINDSAY: That is very easily saved. All you have to have on that matter is, the Reporters give you a copy of the offer, and the objection and the ruling on the objection, and that covers everything.

MR. SMITH: And then we retain the exhibits to be presented if we ever need them in connection with our part of the record.

TRIAL EXAMINER LINDSAY: That is right.

MR. DAY: Come up here.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: This hearing is now adjourned to Cleveland, to the County Courthouse in Cleveland until Thursday, the 23rd, at 10 o'clock a. m.

(Whereupon, at 8:50 o'clock p. m. September 21st, 1937, an adjournment was taken to 10 o'clock a. m. September 23rd, 1937.)

Court Room 3, Common Pleas Court,
Cuyahoga County, Cleveland, Ohio,
Thursday, September 23, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 10 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio;

Judge Chas. F. Smith and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio, appearing for the Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILLIAM I. MANLEY

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Your full name is William I. Manley?

A. That is right.

Q. Where do you live, Mr. Manley?

A. 125 LaBelle Avenue, Youngstown.

Q. How long have you resided in Youngstown?

A. Approximately all my life. I have been away twice for six months at two different times—working out of town.

Q. Where are you now employed?

A. Republic Steel Company at Youngstown.

Q. How many years have you been so employed?

A. With the exception of twice for two six-months periods since 1913.

Q. What position do you hold with the Republic Steel Corporation, Mr. Manley?

A. Superintendent of the mechanical department.

Q. Now, as superintendent of the mechanical department, how many men do you have under your control?

A. I have 1600 men.

Q. Will you just explain what your duties in this connection are; what departments are covered in your term of mechanical department?

A. The mechanical department covers all utilities such as pumps, boiler houses, hydraulic, the service water pumps, and the maintenance or crew or millwrights in the mills, and the operating engines in the mills, the locomotive engineers and firemen, and also all service shops except roll and electric shops.

Q. Is the foundry included within your department? The foundry I refer to is the one at which Thomas White was employed?

A. That is right.

Q. Do you know Thomas White?

A. Yes, I do.

Q. The testimony of the Labor Board in chief showed that the foundry was closed and discontinued on the 13th of March, 1937. Do you concur in that being the date on which it was closed?

A. That is right.

Q. I wish you would state the reason why the foundry was discontinued at that time, if you know?

A. There was a large back log of Bessemer orders; as I understand it they needed the Bessemer Steel very badly and in order to get more Bessemer Steel they had to get the iron from the blast furnaces.

In order to get the iron from the blast furnaces there was only one thing to do, was to shut the foundry down and take the iron up there, it paid to take the iron we had for Bessemer Steel, rather than buy Bessemer Steel from somebody else.

Q. Now, you may state whether or not there had

been any conferences covering a period of say thirty or sixty days prior to the closing in which this matter was discussed and analyzed?

A. At least thirty days previous to the shut-down, there had been talk of how bad they needed iron at the Bessemer Plant, and they had went into it from every different angle.

MR. LAUTER: Object to the fact that they were having a talk and move it be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken unless you tell what was actually done, what was actually said.

MR. SMITH: Well, your Honor, may I suggest on this—

TRIAL EXAMINER LINDSAY: Well, that is the ruling now, and Mr. Smith, remember this one thing: When I make a ruling that ruling is made and you may have an exception. It is not necessary to constantly go into argument because it is not going to do you any good. I sustained the objection. Now ask a question.

MR. SMITH: Well, let me ask this question of your Honor—

TRIAL EXAMINER LINDSAY: Now just a minute.

MR. SMITH: I would like to ask one thing.

TRIAL EXAMINER LINDSAY: Just examine your witness. There is not going to be any fighting.

MR. SMITH: I would like to know it for my own understanding as to how to proceed. I would like to ask if, when a question is objected to—

TRIAL EXAMINER LINDSAY: I have—Just a minute.

MR. SMITH: If I would have the opportunity

to state my reason why I think it is competent before the Court rules?

TRIAL EXAMINER LINDSAY: Well, I have ruled it out. Now proceed with examining this witness.

Q. Now, what was the amount of iron, if you know, that would be provided for use at the Bessemer by the discontinuance of the foundry?

A. Would be close to 700 ton. Between six and seven hundred ton per month.

Q. Per month?

A. Yes.

Q. Had you had conferences—without saying what they were—had you had conferences with the operating heads of the Bessemer department in connection with the iron condition—their iron supply there?

A. Yes, sir.

Q. From what period of time would you say that those conferences occurred?

A. Something over 30 days.

Q. After having had these conferences in connection with the condition of their iron supply, you may state what the determination was in connection with the foundry.

A. To discontinue the foundry. That is the question you wanted there? The first thing on it was to try out—

TRIAL EXAMINER LINDSAY: Just a minute. Will you read that question and answer?

(The last question and answer were read.)

TRIAL EXAMINER LINDSAY: In the first place, the question is misleading in that he said that they had talks. Now he didn't specify who the people were with whom he talked and with whom he talked to.

MR. SMITH: I think if you will read the question back, your Honor will see the mistake. Will you read the previous question?

(The previous question was read.)

TRIAL EXAMINER LINDSAY: Now, read the answer.

(The last answer was read.)

TRIAL EXAMINER LINDSAY: I beg your pardon. Proceed.

Q. State whether or not the reasons you have given was the reasons for closing the foundry on March 13th.

A. Yes, sir, it was.

Q. It has been testified to by Mr. Thomas White that on March 12th, 1937, that he had been elected to an office in connection with one of the C. I. O. lodges of Republic, and that the foundry was closed down the following day on the 13th of March. I wish you would state whether or not at the time the determination was reached for closing down the foundry, and the order for closing it down, whether or not you knew he had been elected to such an office.

A. I did not know.

Q. And did the fact that Mr. White was elected to that office have anything to do in connection with the closing of the foundry?

(Discussion off the record.)

Q. And did the fact that Mr. White was elected to that office have anything to do in connection with the closing of the foundry? So far as you know?

A. No, it did not.

(The answer read by the Reporter.)

A. No, it did not.

TRIAL EXAMINER LINDSAY: Now, Mr. Smith and Mr. Day; and Mr. Lauter and Mr. Hoskins: Will you come up here just a minute. This is entirely off the record.

(Consultation held.)

Q. (By Mr. Smith) How many men were in the foundry prior to the discontinuance of it, Mr. Manley?

A. Fourteen men.

Q. Did you know or do you know now as to how many

of these employees were members of the C. I. O.?

A. I did not at that time know. I have seen, since, the names of two of them in the paper, listed that way.

Q. Has the foundry reopened since the 13th of March?

A. It has not.

Q. Do you know how many of the 14 men who were employed there are now employed in the Republic?

A. I know that in our department we have two. There is two more working on steel casting boxes and the open hearth. My recollection is that I spoke to three or four others of men, there, but I am not positive about the number. I would say about seven or eight altogether.

Q. And these men were employed on other work than foundry work?

A. That is right.

Q. Did you have a talk with Mr. Thomas White at or about the time of the closing of the foundry?

A. In this way: I went over and talked to all the foundry men on shutting down the foundry; to Tom specifically, no.

Q. What did you say to them at the time you went over to them for a talk?

A. I told them I had bad news for them. That we were shutting down the foundry; and I went on and told them that they needed iron over to both Bessemer and the open hearth. That due to that cause, that they had put all the scrap they possibly could to keep the open hearth iron. The only way to keep Bessemer iron was to shut down the foundry.

Q. You explained that to them?

A. Yes, sir, I told them just that.

Q. Do you remember a man by the name of Charles B. Fagin?

A. I do.

Q. Where was he employed?

A. He was a second-class molder at the foundry.

Q. Now, before leaving Mr. White and taking up with Mr. Fagin, did Mr. White ever talk to you about employment in the plant after the discontinuance of this work?

A. Not Tom White. Brother James did; not Tom.

Q. Was Tom there at the time?

A. Tom White was standing under the bridge at the time James White came into the hall. He was coming into the office and James White and two other boys came into the office and talked to me.

Q. What was the procedure that would be necessary in connection with any of the employees of the foundry after the discontinuance, in connection with getting their work in the mill?

A. They would be transferred over by the employment office to the other jobs. That is—

Q. What, if anything, was necessary—what action was necessary to be taken by any such method in order to have that happen?

A. To either—there was two. Either to find out whether there was a job and have the foreman there to transfer him over, and then take it up to the employment office; have it recorded there; and the other one was to go to the employment office and find out if they knew of any job that he could be transferred to.

Q. Do you know of your own knowledge whether or not Mr. White did register at the employment office?

A. I do not know that of my own knowledge.

Q. Now, that Mr. Fagin, he was one of those same 14 men working in the foundry?

A. That is right.

Q. Did you have a conversation with Mr. Fagin at or shortly after the discontinuance of the foundry? You may answer that by yes or no.

A. Yes.

Q. Now, do you recall when it was you had this conversation?

A. I would say probably two weeks afterwards.

Q. Do you remember where the conversation was held?

A. Yes, sir, at the coke works, right back of the coke works office.

Q. What was Mr. Fagin doing at the time you had that conference with him?

A. He was working in the labor department. They were putting in a foundation for a scales down there. He was right close to that job. He was working close to it. I believe on the job.

Q. Do you know of your own knowledge whether or not Mr. Fagin registered at the employment office?

A. No, I don't. Other than he must have, in order to have been re-employed.

MR. LAUTER: Object to what he must have. Move it be stricken from the record.

TRIAL EXAMINER LINDSAY: Just a minute, when an objection is made, just quit talking, please.

(The last question and answer read.)

TRIAL EXAMINER LINDSAY: All right with "No, I don't." From there on, strike it out. Let the record show an exception.

Q. (By Mr. Smith) Do you know of your own knowledge that after the foundry discontinued, that Mr. Fagin was working in the plant at other employment?

A. Yes, sir, I do.

Q. Do you know of your own knowledge what would have been necessary for him to have done, to have been so employed in connection with registering at the employment office?

A. It would be necessary to have a transfer put through the employment office, to go to the employment office and have a transfer made.

Q. Will you relate, please, the conference, the conversation you had with Mr. Fagin at the coke works, where he was so employed at this time you have designated?

A. Mr. Fagin stopped me and asked me for a crane job. I said, "Sure, I will give you a steam crane job, Charles, if you can run a steam crane." He said, "Oh, not a steam crane, an electric crane." "That is different," I said, "I don't have a thing to do with electric cranes. They don't come under me."

He says, "Who do they come under?" I says, "The electric department." "All right."

Q. Did you have a job at that time on a steam crane open?

A. Yes, sir, we had requisitions for steam crane men, or calls for steam crane men.

Q. Had you any knowledge either from Mr. Fagin telling you so or otherwise, as to him having had experience with cranes?

A. No.

Q. Or running a crane?

A. No, only that talk, there.

Q. Did he say anything to you in this conversation relative to any experience he had had in connection with operating cranes?

A. No, he didn't.

Q. He just asked you for a crane job?

A. Yes.

Q. Did you ever have any conversation with Mr. Fagin subsequent to that time?

A. Other than speaking "Hello" going through the mill yards, no.

Q. Do you know of your own knowledge anything in regard to whether or not Mr. Fagin was given a vacation with pay shortly subsequent to this time, or sometime subsequent to it?

A. I know that our list as sent down, he was listed

for vacation. Because I had him listed from the foundr at that time.

Q. Do you know whether he took the vacation or not

A. Not positive. I understand he did, but not posi tive.

Q. In order for him to be on that list that was sen down, you say that would have to be done by you?

A. No, their length of service depended on the vacs tion, and that list was made up and sent on to us. Well, i he had of stayed in our department, we would have o. k' the slip for his vacation, according to that list.

Q. What would you say if he took a vacation, as t whether or not it would show continuous employment i the company up to the date of his vacation?

A. Absolutely.

MR. LAUTER: May I have the question read?

(The last question and answer was read by th Reporter.)

Q. The vacation you referred to would be with pay wouldn't it?

A. Yes, sir, that is the only vacation list we have ou there, would be with pay.

Q. Do you recall the date on which the strike wa called?

A. May 26th.

Q. Did you remain in the plant, Mr. Manley?

A. I did.

Q. Do you know the date on which the gates wer opened and men were permitted to come back, and that number did return to work?

A. June 25th, I believe.

Q. Yes. Now, subsequent to June 25th did you hav any conversation with Mr. Fagin?

A. No.

Q. Subsequent to June 25th did you have any con versation with Thomas White?

A. No.

Q. Do you know of your own knowledge as to where Thomas White is now employed, if employed?

A. I heard that he was at Columbiana; I don't know.

Q. You may state, Mr. Manley, as to whether or not there was any different treatment accorded to Mr. Thomas White or Mr. Charles B. Fagin, different from the same treatment all of the other employees that had been working in the foundry up to the time it was discontinued.

MR. LAUTER: I object—

Q. So far as you know?

MR. LAUTER: I object to it as calling for a conclusion. Let him state what treatment they did get, Fagin and White and the other employees, in the foundry, without stating a conclusion.

TRIAL EXAMINER LINDSAY: Yes. The objection is sustained. Let the record show an exception.

MR. SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Let the record show an exception.

MR. SMITH: Your Honor, I would like to make an offer to prove in connection with that question.

TRIAL EXAMINER LINDSAY: Now, just a minute. You are asking questions that call for conclusions.

MR. DAY: So far as he knows.

MR. SMITH: I asked, so far as he knew.

TRIAL EXAMINER LINDSAY: I didn't catch that last part. Anyway, that calls for a conclusion. So as I understand the examination of the witness he asked what exactly transpired relative to the layoff or the discharge or whatever it is proved to be. All the facts leading up to that discharge or that layoff. Then the conclusion to be drawn from that set of facts is to be made by the deciding party which will be the Na-

tional Labor Relations Board. That is the only thing on which anyone can make a deduction and that is on actual facts. What happened; what transpired. Now, here is another angle that puts possibly the Board's attorney in the position of being unable to cross-examine the man on the facts. The facts are necessary. On that particular question I might refuse you the right to make your offer to prove. However in doing so, I am not going to refuse you to examine the witness on bringing out all the facts relative to that discharge or the layoff.

MR. SMITH: Now, your Honor, I want to have the record show why we are offering it—

TRIAL EXAMINER LINDSAY: I am not through yet.

MR. SMITH: I beg your pardon.

TRIAL EXAMINER LINDSAY: This idea of making an offer to prove on certain things on the mental feeling of a man is not the proper thing to do. I am constantly having that thing coming up in your examination of witnesses. Now, facts are what we want here and not a conclusion of any witness on anything.

MR. SMITH: Here is a man, your Honor, who has been working since 1924 in charge of these departments. Now, I have asked him if, as far as he knows, whether any different treatment accorded to these two men was given other than that was accorded to the other employees there. A man who has had that length of experience in connection with it seems to me to be in a position to give a conclusion based upon his knowledge of the facts.

TRIAL EXAMINER LINDSAY: Now, Mr. Smith, I am again instructing you if you have any further questions on facts pertaining to that layoff or discharge, you may ask them, and let the witness testify

as to what those facts are so that in any cross-examination at least a chance should be given to the Board's attorneys to make their cross-examination on those facts. Now, proceed. You may have an exception on my ruling.

MR. SMITH: I wish an exception to your ruling.

TRIAL EXAMINER LINDSAY: This is not a hearing which is going to be completely drawn out by these things.

MR. SMITH: I beg your pardon. I didn't hear you.

TRIAL EXAMINER LINDSAY: This is not a hearing which is going to be completely drawn out by those things. I am not refusing you any privilege which you may have here or which you may think you have in this hearing if you will continue the examination of your witness on facts. Now, you may proceed on facts. That is what we want.

MR. SMITH: Now, your Honor, I just want to—

TRIAL EXAMINER LINDSAY: You made your statement; now ask the question.

MR. SMITH: I want to say this in connection with the statement you have just made—

TRIAL EXAMINER LINDSAY: Now, just a minute. Off the record.

MR. SMITH: All right. Off the record.

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Proceed with the examination of your witness or Mr. Day will take charge of the examination.

MR. SMITH: I just want to say—

TRIAL EXAMINER LINDSAY: Go ahead and ask the questions, if you have them. Ask him on facts.

MR. SMITH: Well, I just want to say this one further word and then I will quit.

TRIAL EXAMINER LINDSAY: Now, listen. I am not going to tolerate any more of this arguing, Mr. Smith, on any ruling that I made. Now, you either examine your witness or someone else will. Now, proceed.

Q. The Board's case in chief, Mr. Manley, refers to a meeting that was held in the machine shop, I believe, or at the planer table somewhere around the middle of April, he says. Do you recall a meeting being held there in which you spoke?

A. Not about the middle of April, no.

Q. Do you recall of speaking at a meeting at that location?

A. Yes, sir.

Q. Now, what do you say as to the date of that meeting?

A. During the first week in April; early in April.

Q. Early in April?

A. Yes, sir.

Q. Now, Mr. Walter says that at that meeting that you made these statements, that you had talked with Thomas White, the President of Republic Lodge, I believe it was called, and that you had told Thomas White that he had better watch out or words to that effect in his connection with the C. I. O.?

A. I never made any such statement.

Q. And further that you had said at that meeting that the officers of the C. I. O. would sell them out, and that Thomas White had told you he had his price and would sell out?

A. I never talked about C. I. O. to Tom White, and I never told anybody that I did.

Q. Did you ever have any conference with or conversation with Thomas White, in which you discussed the C. I. O. and Thomas White said to you this, or substantially this: That he had his price and would sell out?

A. No, sir, never.

Q. In this meeting which has been referred to, which you say is in the first week of April, Mr. Walters testified in substance that you had told the employees at that meeting in the talk that you made, that if they wanted to hold their job they should join the Employees Representative Plan?

A. No, sir, I never made such a statement.

Q. And further, in substance, that you threatened the employees with either discipline or discharge, if they belonged to the C. I. O.?

A. I never did.

Q. Now, referring to this same meeting in the planing mill, I wish you would state in substance what you talked about at that time?

A. There was a number of complaints at the time we knew of a good deal of going around and talking through the mills and we had had individuals, talked to individuals told them we didn't care—I told them that I didn't care what was done outside, but inside the plant I didn't want them running around visiting and talking, organizing, or whatever they wanted to call it. I wanted them, while they were on company property and on company time, to quit it. What was done on the outside, I did not care. And in this meeting I also told them that they didn't have to join anything to get or hold a job with Republic Steel Corporation.

Q. Now "anything"—what did you mean by the word "anything?"

A. Any society, C. I. O., representative plan or anything else. I just said that they did not have to join anything to get or to hold a job with Republic Steel. That is the way we were told.

Q. You may state whether or not you had heard or seen any printed matter or heard anyone saying that it was

necessary, in connection with the C. I. O., to join it in order to hold their jobs and to protect their rights?

A. The feeling was very—seemed to be—

Q. No, answer my question. Did you hear—

MR. LAUTER: May I have the question read, please?

(The last question read by the Reporter.)

A. To protect their rights, yes. I seen printed matter to that effect.

Q. And in the discussion that you had there at the planer table, was it in explanation of the printed matter that you had seen, that you made the statement you have already testified to?

A. That is right.

MR. LAUTER: Well, that question is a little leading.

MR. SMITH: I know it is leading.

MR. LAUTER: I wish counsel would refrain from asking leading questions. It puts me in an embarrassing position of objecting to them.

MR. SMITH: All right, I will withdraw the question and ask it in another way.

Q. (By Mr. Smith) You have testified to seeing printed matter in which it stated that it was necessary, to protect their rights, to join the C. I. O. What was the nature of the printed matter that you saw? What was it?

A. Oh, there was considerable matter thrown off the bridge, there, every couple of days. And while I can't recall the exact wording of it, it was to the effect that the men had to get into the C. I. O. in order to get the necessary protection and a living wage out of the steel mills, and I can't be specific on that. That is a pretty hard question to answer. I had seen—We had had fellows come in and complain that they were being bothered through the mill and told this and that, that they had to join the C. I. O. or it was going to cost them $50, and the like of that.

And that is the real reason for the meeting.

Q. What do you mean "join the C. I. O. or it was going to cost them $50?"

A. They couldn't keep a job, or if they did keep a job after the strike was over or after Republic signed up, they would have to pay $50 to join.

Q. Those were the complaints that were made to you?

A. That is the complaints that we were getting, right along.

Q. Now, this printed matter that you refer to, was there anything on the printed matter that purported to show who was putting it out?

A. Yes, I don' remember the heading, whether it was S. W. O. C. or C. I. O., but it was headed up, all right. There was the names on it.

Q. It was one of those two organizations?

A. Yes, sir, that is right.

Q. Now, after having seen that printed matter and after having had these oral complaints, you may state what you did about it, if anything?

A. In two or three specific cases or more than that, probably a dozen specific cases we called men in and told them individually to quit bothering the men in the mill, that we would not stand for it on company time or company property. There had been so many complaints came in that I thought the thing to do was to get the men together, tell them in a body rather than waste my time and the individual's time, getting them into the office and talking to them.

Q. Did you do that?

A. I did.

Q. Well, was that the meeting that you are now referring to?

A. That is the meeting, yes, sir.

Q. Do you know a man by the name of Felix Valezissi?

A. Not by that name.

Q. Do you know a man by the name of Felix Varancick?

A. Yes, sir.

Q. Do you know whether or not it is the same man?

A. My understanding is that it is. I am fairly certain that it is.

Q. Were you in the courtroom at the time that this man under the name of—that I first spelled out—testified?

A. No, I was not in the courtroom at the time, but he speaks of the same job.

Q. The man is Felix—How do you call that Varancick?

A. Yes.

Q. As you have him on the company register?

A. That is right.

Q. Where was he employed?

A. Hydraulic pump man at the butt and lap tube mill.

Q. Now, the butt and lap refers to the method of making pipe, doesn't it?

A. That is right.

Q. And the word "butt" refers to where the sides of the pipe are put up in opposition to each other?

A. That is right.

Q. And the "lap" refers to where the one side of the pipe laps over the other side in the course of manufacture, is that correct?

A. Yes, sir.

Q. Did you have a talk with this Felix Varancick?

A. I did. I don't remember the exact date. About the 26th or 27th of June. Right in there.

Q. Where did you have that talk?

A. In my office at the open hearth plant.

Q. That was after the gates had been opened and a number of the men had returned to their employment?

A. That is right, that is right.

Q. Do you remember what time of the day it was?

A. I would say about 10—between 10 and 10:30, in there.

Q. Now, will you just tell the conversation you had with him?

A. Yes.

Q. The substance of it.

A. Felix came to the office. I asked him "What can I do for you?" He said, "How about my job?"

I said, "Where is that big club you had up at the tube mill gate there for a little while?" He said, "The police took it away."

I said, "What did you have that club for?" He said, "When I got that club I am not afraid of anybody."

I said, "Did you need to be afraid of anybody?" He said, "When I get that club I stop anybody."

So I said, "Well, we don't need you, Felix. If we need you we will send for you."

He said, "What am I going to do?" And I says, "I don't know what you are going to do, Felix. I can't help you a bit."

Q. Was that the substance of the conversation?

A. That is right.

Q. And did you ever talk with him at any other time since then?

A. No. I called the policemen in—they were accompanied to and from the gate by policemen—I called the policemen in and when the policemen came in I said, "How big a club was that club you had up there?" He says, "About so long."

Q. Indicating how long?

A. I would say about 30 inches.

Q. Anything further said?

A. I just told the policeman, I said, "Accompany this man back to the gate."

Q. Well now, on this did the policeman accompany

them in just especially with this man or was that the practice?

A. That was the practice.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. SMITH: Will you read that last question and answer?

(The last question and answer was read.)

Q. Do you know, Mr. Manley, of your own knowledge, a Mr. Varancick being on the picket line and carrying a club?

A. I do. I seen him.

Q. Will you describe the character of club you saw him carrying?

A. I would say the club is about 30 inches long and about two inches in diameter.

Q. About 30 inches long?

A. Yes, sir, about that.

Q. Where was he located?

A. At Stop 5 or the tube mill gate, as it is called.

Q. What was he doing there at that time?

A. Walking back and forth part of the time and part of the time standing. There was a crowd of fellows there.

TRIAL EXAMINER LINDSAY: Just a minute. I understand this is one of the men named in the complaint?

MR. SMITH: That is right. That is one of the witnesses who testified. He testified in this case in behalf of the Board.

TRIAL EXAMINER LINDSAY: At Youngstown?

MR. SMITH: At Youngstown hearing yes.

TRIAL EXAMINER LINDSAY: But he is not named in the complaint?

MR. SMITH: Well, I am not certain of that.

TRIAL EXAMINER LINDSAY: What was that name?

MR. SMITH: He gave his name at the hearing as Valezissi but the name that he bears on the Company's rolls is Felix Varancick. I think on that, your Honor, there were some changes of names that were made, foreign names in connection with the Social Security registration. It probably makes a difference in the spelling of the name. Shall I proceed?

TRIAL EXAMINER LINDSAY: Yes.

Q. You may state whether or not, Mr. Manley, if he was in the picket line there.

A. Yes.

Q. Do you remember a man by the name of George E. Jones? He formerly worked in your department?

A. Yes, sir, in the machine shop; apprentice boy.

Q. Did you have any conversation with him at any time after the strike was called or declared?

A. Yes, on the night of June 27th, I believe it was. The last Sunday night in June was when the conversation was had.

Q. Now, that was about two days after the mill was opened?

A. That is right.

Q. Now, you may state what that conversation was. Was it personal conversation or over the phone?

A. Over the phone.

Q. State what the conversation was as near as you can remember.

A. George called up and he said—my wife called me to the phone and said: "Somebody wants you on the phone—" and I went up to the phone and he said: "This is George. How about my job?" And I said: "George

who?" He said: "George Jones." I said: "Well, George, you have no job up here; your job is down at the mill. I am doing all the mill business at the mill." I says: "You will have to go to the mill." He said: "All right." Or: "O. K." I don't remember just what he said but it was something to that effect.

Q. Did that conclude the conversation?

A. That concluded the conversation.

Q. Did you at any time later have a conversation with him?

A. On July 19th George Jones came to the plant.

Q. Did you have a conversation with him at that time?

A. Yes, sir.

Q. Just state—is your answer yes?

A. Yes.

Q. Now, you remember what time of day it was?

A. It was in the forenoon; probably 9:30 or around 12 o'clock; somewhere in that period.

Q. Where did that conversation take place?

A. At the foot of the steps at Center Street Bridge.

Q. How did you receive notice that he was there?

A. I was going across there and a policeman called me over and he said: "Here is a fellow that wants to talk to you." I went over and talked to George Jones.

Q. State as near as you can the conversation.

A. I said: "Hello." George said: "Hello." He said: "How about my job?" I said: "George, you have been so long in coming back, you will have to go to the employment office and register." I said: "You go up and register and I will talk to you later." That is the last I seen or heard of George Jones. Pardon me. I think I seen him on the street but not to talk to him.

Q. Do you know whether or not he did go and register?

A. To the best of my knowledge, he did not.

MR. SMITH: All right. You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) The first conversation that you had with Mr. George Jones was over the telephone on June 27th, is that correct?

A. The last Sunday night in June, I would rather make that, but I think it was the 27th.

Q. Then you had another conversation on July 19th, is that correct?

A. That is right.

Q. During the conversation on July 19th you said to Mr. Jones: "You have been so long in coming back. Go to the employment office and register." Is that correct?

A. That is right..

Q. That is, as a new man?

A. No; we are not clear on how the registration was at that time or what the classification was. They had to come in through the employment office at that time. We weren't clear on what the standing would be. We knew they had to go and register. The first few days you took the men just as they came in. Then when we had enough men to run the mills, then it was a case of putting them back to work.

Q. You mean you weren't clear on July 19th when you said that he had been so long in coming back to work and that he should go to the employment office and register, that he was to go as a new man or not?

A. I don't think he was going to go as a new man.

Q. What do you mean when you say: "Go up and register?"

A. Just that going up and putting in his name. The men that wanted to go back to work.

Q. Did you make it clear to him that he was not going there as a new man?

A. I didn't say that he was. I would think when he was told to go up there and register—

Q. I am not asking you what you think.

A. No, I didn't state it either way. I just told him to go and register.

Q. Now, do you know whether or not a new man coming into the mill registers at the employment office?

A. I suppose they do.

Q. Well, don't you know?

A. Well, a man has to come through the employment office.

Q. Then you know.

A. To come in, yes.

Q. That is right, you know that new men come in there and register through the employment office. Now, when you transfer a man from one part of the mill to another, do they go register at the employment office?

A. Absolutely.

Q. They register?

A. Yes, sir, that is, they go up there and have the transfer fixed up, whatever you call it.

Q. That is right, the transfer is what I speak of?

A. Have the transfer registered at the employment office.

Q. And you weren't clear in your own mind when you told George Jones on July 19th to go and register, what the policy of the company was at that time, were you?

A. My thought was—

Q. I am not interested in your thought. I am interested in whether or not you knew what the policy was at that time?

A. No, not on that one.

Q. You couldn't, necessarily, instruct him as to what the policy was, could you?

A. Oh, I never asked.

Q. I am asking you whether or not you were in a position at that time to instruct George Jones as to the policy of the company with respect to registration?

A. No.

Q. Now, you said that as far as you know he has never registered, is that correct?

A. That is right, so far as I know.

Q. Did you check to find out whether or not he had registered?

A. I checked about a week later, around the 25th.

Q. How did you come to check on George Jones?

A. We might have had something in the shop.

Q. I am not asking you what you might. Tell me why you checked.

A. Oh, we were putting men in, that is the reason I checked George Jones.

Q. Putting men on where?

A. In the shops.

Q. Were you putting men on his particular job?

A. No, we haven't put anyone on that particular job. An apprentice boy's job can be done by a helper.

Q. Are you saying that no one has taken his job, that it is still there in the mill now?

A. No, I wouldn't say that, either.

Q. You haven't offered him his job back, have you?

A. What is that?

Q. You haven't made any offer to him of his job, have you?

A. No, sir.

Q. You are the superintendent of the mechanical department?

A. That is right.

Q. How many men do you have working under you?

A. About 1600 men.

Q. What was the date that the foundry shut down?

A. March 13th.

Q. 1937?

A. That is right.

Q. What do they do in the foundry? What is the nature of the work there?

A. Mostly stools.

Q. Mostly what?

A. Stools.

Q. Well, explain what you mean when you say "mostly stools."

A. In the open hearth and in the Bessemer plant, the hot metal is taken out and put in the forms of ingots. The engine has to be poured into an ingot mold. The steel is the base of that ingot mold. It is set on top of a car and the ingot mold is set down on top of it and then the metal is poured into it. The stool really forms the top of the car and also the bottom of the mold. The hot metal goes down on the stool.

Q. Is that what is made in the foundry that is closed down?

A. Yes, not entirely, but about 90 per cent of it. There are times when they run short and do some little odd casting that was done over there. The stool was the big item in the foundry.

Q. Now, what do you say was the reason for closing the foundry?

A. The need of the iron at the Bessemer plant.

Q. Now, do I state it correctly when I say that the Bessemer plant uses about 30,000 tons a month?

A. I would say somewhere around 30 to 35, but I am not positive of that.

Q. In that neighborhood, is that right?

A. What?

Q. In that neighborhood, is that right?

A. In that neighborhood, somewhere in there.

Q. And do I state it correctly when I say that the foundry used about 700 tons a month?

A. Yes.

Q. And do I understand that the reason for shutting the foundry was, you needed the 700 tons that were used in the foundry?

A. For the Bessemer.

Q. Or the open hearth?

A. That is right.

Q. Now, do you buy molds? The molds you have been referring to, or stools?

A. That is right.

Q. And were you buying them at the time that the foundry was in operation?

A. We had bought some previous to that, to try them out.

Q. For how long a period have you been buying these molds or stools?

A. That is a very hard question for me to answer, because I didn't order the stools.

Q. Do you know that they were ordered?

A. But I would say—

Q. Yes.

A. About sixty days, I think.

Q. Now, you know—how many men did you say were employed in the foundry?

A. 14, as I remember it.

Q. And some of those men are working in the plant?

A. Yes, sir, I have two of them.

Q. Were those men transferred from one job to another, in the plant?

A. Yes, sir. I got them transferred back to me from the labor department, as I needed men.

Q. You mean that they rehired as new men, also?

A. No, they were not rehired—I don't think that any of them was. At least one of these two that I am speaking

of, in particular was not. He took a job on the labor gang right away. When I needed a millwright I got him transferred right over. I also got this other lad transferred over.

Q. How did you effect the transfer? Just describe how you could effect the transfer?

A. If I have a job open, can place a man, a fellow has come to me, asked me for a job, he would like to come over to a job, I would tell that fellow "I have got this job open at this time."

If he wants the job, all right. I write out—I have to transfer or rather call up his foreman and ask him to transfer that man over to me. I fill out the other half of it, give it to this man. He takes it to the employment office and they record it there and give him a new check number and send him back.

Q. Now, do you recall the names of the two men who were transferred to work under you?

A. Bailiff was one and Pecar, I believe, is the other name.

Q. Pecar?

A. Pecar, I think, is the other name. I won't be too positive on that last name, there, but the first one is Bailiff.

Q. Do you recall how soon after June 13th these men were transferred to work under you?

A. Pecar, or the last man, it was only within the last —oh, about three weeks ago. Bailiff, I can't recall just how long, I would say probably ten days, two weeks before the strike.

Q. Did you request the transfer of these men? Did you request the transfer of these men, Bailiff and Pecar?

A. How do you mean, "request"?

Q. Well, how did they happen to come to your department? Did they request that?

A. Oh, they asked for it.

Q. They came to you and asked you?

A. Yes, they asked me if I had a job open, to give them a job. Sure, that is right.

Q. Do you know whether or not they were employed since March 13th, 1937, at the plant?

A. Now, you mean whether they are working now?

Q. No, between March 13th, 1937, and the time that they went to work for you, in the case of Bailiff ten days or two weeks before the strike, and the case of Pecar—

A. Yes, Bailiff positively was.

Q. Let me finish my question. In the case of Pecar, about three weeks ago—Were they working in the plant?

A. Yes, oh, yes.

Q. Both of these men?

A. That is right.

Q. Do you know where they were working?

A. Bailiff, I know, was on the labor gang. I think Pecar was, also, on the labor gang.

Q. Now, do you know whether or not they have lost any employment at all after March 13th, 1937, or whether they went to work next day or next week?

A. Now, that is something I couldn't tell you. Bailiff was working on the labor gang very soon afterwards. I know that, but I don't know whether he lost any time or not.

Q. Now, when Bailiff came to you to ask you whether or not you had a job, while he was on the labor gang, you had a conversation with him about taking him on, is that correct?

A. Well, if a man comes in and asks for a job, asks you if you have something open and you have it. ure you talk to him.

Q. Do you recall the conversation you had with Bailiff?

A. Bailiff—I can tell you along the general lines, yes.

Q. Yes, that is what—

A. A man asks me for a job, I ask him, I say "What

can you do, what experience have you had?'' He told me that he had worked around—I don't remember just what it was at this time, I can't say exactly what, but I said, ''Well, I think you would fit in as a millwright.'' I says, ''The first time I have something open, why I will get in touch with you.''

Q. How many conversations did you have with Bailiff about taking him back?

A. Only one.

Q. And how soon after you had that conversation did you take him back?

A. Oh, probably a week to ten days. He was at the coke works, working the same as Fagin was.

Q. Well, you mean in the foundry?

A. What?

Q. You mean in the foundry?

MR. SMITH: No, he said—

A. No, I say at the coke works, on the labor gang. Coke works is where he talked to me.

Q. You knew at that time that Fagin was also working in the coke works on the labor gang?

A. That is right.

Q. At the time you took Bailiff to work with you, is that correct?

A. That is right.

Q. And that is also true with respect to Pecar? Did Pecar?

A. Pecar never talked to me until—well, I will say this; Pecar never really talked to me. He talked to Bill Sponsler at the Haselton furnace. He is foreman over there at Haselton furnace. And Bill came to me and told me that Pecar wanted a transfer. ''O. K., transfer him.''

Q. You o. k'd the transfer?

A. That is right.

Q. Do you recall how soon after you o. k'd the transfer he came there to work with you?

A. Oh, he come over as quick as they can go to the employment office, get their number changed. I don't recall. If I o. k'd it at night, then he would be over the next day on one of the two turns.

Q. Did you have the conversation with Bailiff about his seniority in the foundry?

A. No.

Q. That is, he came and asked you for a job, he was working on the labor gang just the same as Tom White, just the same as Charlie Fagin was, and you made no inquiries about how long he had been in the plant, is that correct?

A. That is correct.

Q. You just took him back to work for you?

A. That is right.

Q. In your department?

A. That is right.

Q. And while these men were working in the labor gang in the coke plant, that was not your department, is that correct?

A. No. That is right.

Q. When you took back Bailiff, you made no inquiries about his standing as far as the number of years he had spent working in the plant?

A. That is right.

Q. Now, in effect that was a promotion, wasn't it? Taking him out of the labor gang and giving him a job you gave him? They get more money, don't they?

A. That is right.

Q. And you made no inquiries about whether or not Fagin was entitled to come up in order of seniority for a promotion, is that right?

A. Fagin never asked me except for a crane job.

Q. I am asking you—

MR. SMITH: Let him answer the question.

A. No.

Q. I am not asking you to tell what Fagin said. I am asking you to answer my question.

A. That is right.

Q. Which has nothing to do with Mr. Fagin?

A. All right.

MR. SMITH: You asked—

MR. LAUTER: Just read the question back.

TRIAL EXAMINER LINDSAY: This is cross examination.

MR. SMITH: I understand it is, but I want him to conduct it right.

TRIAL EXAMINER LINDSAY: Now, there is no argument, I suggest. Proceed with this case.

MR. LAUTER: Just read the question back.

(The question read by the Reporter as follows:

"Q. And you made no inquiries about whether or not Fagin was entitled to come up in order of seniority for a promotion, is that right?")

Q. (By Mr. Lauter) With any of the officials of the company, is that correct?

A. That is right.

Q. Now, two of the 14 men were working in your department, is that correct?

A. That is correct.

Q. Two of them were working in the steel castings?

A. That is right.

Q. Who were those two men?

A. I am not saying that right, either. These two that are in the steel foundry were in the steel foundry at that time. Billy Black, the fellow that was foreman, one of the 12 men, is over there in the steel foundry.

Q. You mean one of the 14 men?

A. The other fellows that was working. The men that were working on the open hearth, only just exactly what they are doing, I don't know; I am not sure.

Q. We are not getting a clear picture. Just start again.

A. All right.

Q. Out of the 14 men, 2 men were working in the department?

A. That is right.

Q. There were 2 men working there?

A. Up on the open hearth.

Q. On the open hearth?

A. Yes, sir.

Q. What are the names of those two?

A. I can't tell you names; I don't know the men by all of the names.

Q. And then there were seven or eight there working in the plant?

A. Yes, sir.

Q. Making a total of eight or nine?

A. That is right.

Q. Did you intend to discharge these men when you closed down the mill?

A. No.

Q. You intended to just close the foundry and lay them off?

A. That was done.

Q. They were laid off?

A. That is right.

Q. Is it customary to give a discharge slip to a man that is laid off?

A. A termination slip.

Q. A termination slip of employment?

A. It is marked "Layoff; foundry discontinued."

Q. And if that slip had discharge on it, then you didn't intend to lay them off?

A. What is that?

Q. If the slip that these men received had discharge on it, then you didn't intend to lay them off?

A. We had what we call a check on that slip.

Q. How do you fill out these slips that you are referring to?

A. You have "Discharge, layoff, and quit." You draw a line through two terms you are not using. In this case, was written "Layoff" there. It was written right across the face. "Foundry discontinued."

Q. It was written "Layoff, foundry discontinued."

A. Yes.

Q. Were there any indications on it there, on the three categories you have mentioned, as to whether or not they were quit, discharged or laid off?

A. Laid off.

Q. You are sure the other two were stricken out?

A. I seen that done. I don't think I slipped on that. I am sure; I am fairly certain of that.

Q. Now, let me get this straight. If you laid off the men in the foundry on this slip, two of those three categories would be stricken and they would be quit or discharged?

A. Either that or it was written across the front of it.

Q. And in the same way there would be only one indication. That they were not quit or discharged but laid off, is that correct?

A. That is right.

Q. When you refer to Foreman Black being in the steel foundry, what part of the plant is that? That is not the plant that was closed down?

A. That is across the river.

Q. The foundry we are considering in this case was closed?

A. Yes, sir.

Q. On this steel work?

A. Yes, sir.

Q. Were any in the foundry that was closed transferred to Mr. Black in the steel foundry?

A. In this way, yes. You want the explanation?

Q. Yes, just state whether or not they were working there.

A. It was really 16 men on the foundry payroll. Two of them had always been working at the open hearth steel foundry. The open hearth steel foundry was not shut down. The fellows that were over at the open hearth steel foundry are still on the open hearth steel payroll, I believe.

Q. Are any of the others at the steel foundry working now?

A. Only two of them. The steel foundry does not come under my supervision; I can't tell you.

Q. Now, seven or eight of the total number of men are working in jobs that were not on that labor gang?

A. When you say labor gang, I don't know about that.

Q. You don't know where they are working in the mill?

A. I know they are scattered around the open hearth but whether they are in the labor gang—certain jobs are on the labor gangs are taken care of by another man; what they are in, I don't know.

Q. But you know they are in the mill?

A. That is right. I have seen them there; out there.

Q. Do you know how many of these 14 men were members of the C. I. O.?

A. No, sir.

Q. Do you know now?

A. No, sir; I never asked a man.

Q. Do you know some of the men are C. I. O. men?

A. Undoubtedly.

Q. What is that?

A. Undoubtedly.

Q. How many at that time undoubtedly of the men were C. I. O. men?

A. The law of averages is all that I know. I never

seen one of them with a button on or no one told me.

Q. What do you mean by the law of averages?

A. Well, it was practically in every department. I don't know about in every department but that we had C. I. O. men.

Q. Do you know how many there were in the foundry who were members of the C. I. O.?

A. No, I don't.

Q. Now, you testified that Mr. Fagin got a vacation. Do you know when that vacation started?

A. That thing I am not sure of but my understanding was from hearsay. I heard somebody say he got a vacation just a short time before the strike. I don't believe—I think that what I heard, I heard him saying himself.

Q. You don't know whether or not he had to make certain inquiries from the officers of the Company in order to get that vacation?

A. Any man that is transferred, no matter what, would probably have to do the same thing because I would have—I would have the list with his name. If I had a man transferred to me and he came to me and said: "Bill, I want to go on a vacation on the 1st of the month," I would look up the list and say: "If your name is not on here, you better check up with whom you were before; you better see about it with the superintendent with whom you were before because I don't know if your name is on the list," if he had been transferred to me in a recent time after the list was out.

Q. Now, you testified about a speech which you gave to a department meeting of the men near the planer table.

A. It was on the planer table.

Q. On the planer table?

A. Yes, sir.

Q. Now, will you go ahead and state as near as you can what you said at the planer table? First, tell when it was? What day? What month?

A. Now, I would say very early in April; most likely the first week in April.

Q. About what time of the day was that?

A. This particular time was about a quarter after 11 at night. Walters is a third-class man—a third trick man. The first trick I would say was at 11 o'clock of the night—

Q. You called the men together?

A. Yes, sir.

Q. Just state what was said, as near as you can tell.

A. I told the men that we didn't want the fellows going about in the plant bothering men about joining the C. I. O. or anything else. I told those fellows that all that was prohibited in the mill. That we weren't going to put up any longer with that. What they done outside, we didn't care. If they didn't—they didn't have to belong or to join anything to get a job in the Republic Steel. In the mill we don't want them to go along and have them wasting their time and somebody else's time.

Q. Up to that time, some time in the early part of April, had they been selling tickets in the plant for various affairs?

A. No; we don't allow them. There is always—there is always been a little bit of underhanded, but that is against the rule. I was always—I would say for the last five years there was a rule on it; for four or five years.

Q. Did you say anything about the Employees Representation Plan at the planer table meeting?

A. I may have; I wouldn't say positive; I may have.

Q. I am only interested in a general way, the substance of what you did and said at that time.

A. I believe I told them that I thought the Representation Plan had done a good deal for the fellows there; that things were better than they had been years previous. I believe I said that.

Q. What else did you say?

A. That is about all I remember on it. I didn't talk very long.

Q. How long did the meeting last?

A. The meeting lasted—from the time the meeting was called to the time it was over, I would say not exceeding 10 minutes; probably 8 minutes total.

Q. Where did you get the men from?

A. From all parts of the shop.

Q. You say you got them from all parts of the shop. How large a shop was it where you had the talk?

A. About 100 feet by 300, I believe.

Q. About how many men were there working?

A. It would be probably in the machine shop—the boiler shop, the water mill—in the machine shop about 25 men.

Q. How many in the boiler shop?

A. 8 or 10.

Q. You had then about these 25 men and with the 8 or 10 that would be 30 or 35?

A. Something like that.

Q. Were those all the men you addressed at that time?

A. That is right; now, wait. I may be wrong on that. There may have been men in the shop; in the blacksmith shop; probably 6 or 8 in the blacksmith shop. I imagine about 30 or 35 men.

Q. You spoke to those 30 or 35 men 8 or 10 minutes?

A. Maybe 5 minutes talk. Somewhere in there; I don't know what time.

Q. Let me understand you correctly. You said that you didn't want—that you spoke to these men about the Employees Representation Plan and that it was good enough for them?

A. No, I said that I thought the Employees Representative Plan—the same as I am telling you of my memory—

Q. That is all we want.

A. I thought that the Employees Representation Plan had done a lot for them; that I thought working conditions was a whole lot better than it had been before.

Q. Before the Employees Representation Plan?

A. That is right.

Q. That you didn't want the fellows running around and wasting time?

A. I didn't want them running around on Company time and on Company property. I put it that they were wasting time on the Company's time.

Q. You didn't mean that with respect to the Employees Representation Plan?

A. I meant that regarding anything.

Q. Didn't you know that they were running around organizing for the Employees Representation Plan on Company property and on Company time?

A. No, sir.

Q. You never knew that?

A. No, sir.

Q. Do you know of a single occasion?

A. I—

Q. Do you know of a single occasion?

MR. SMITH: Let him finish his answer.

MR. LAUTER: I asked him if he knows of a single occasion.

TRIAL EXAMINER LINDSAY: Now, listen. This is cross-examination, and Mr. Smith, you let him cross-examine that witness.

MR. SMITH: I am perfectly willing—

TRIAL EXAMINER LINDSAY: Proceed with the examination of this witness immediately.

MR. SMITH: All right.

TRIAL EXAMINER LINDSAY: That is all there is to it.

MR. SMITH: Why, your Honor—

TRIAL EXAMINER LINDSAY: Now, Mr. Smith, that is enough. Proceed.

MR. LAUTER: Will you read the question?

(The last question was read.)

A. Yes, I knew of the organizing of both sides and I went to them individually and stopped them in every case.

MR. LAUTER: Read that question to the witness.

(The last question was again read.)

Q. Do you know of a single occasion when there was organizing done by employees' representatives under the Employees Representation Plan and for it on Company property and on Company time?

A. When you say that do you mean by sight or by hearing?

Q. You may tell about it, what you know, either by sight or by hearing.

A. I never seen it done. I have heard it. The men have complained about C. I. O. organizing. One boy that I talked to about organizing in the mill—

Q. Just a second. I don't want to interrupt you until you tell what you know. I am just directing your attention at this time to what you know either because you have seen it or because you have heard about it, and confine your answer at this time to the Employees Representatives and the Employees Representation Plan. Now—

A. I heard rumors.

Q. To the effect that they were organizing?

A. Yes.

Q. On Company property, on company time?

A. Yes.

Q. Now, how often did you hear that they were?

A. What?

Q. How often did you hear that they were, Employees Representatives, spending company time organizing under the Plan?

A. Oh, that is pretty hard to answer. I would say a few times, but I can't tell you the number.

Q. You know when—

A. The last times, then, I heard them. Put it that way.

Q. Do you know whether—When the Plan started?

A. What?

Q. Do you know when the Employees Representation Plan started?

A. About three years, if I remember right. I would not be too specific on that; about three years.

Q. About June, 1933?

A. Something like that.

Q. Do you know how much company time has been spent holding elections, voting at those elections and primaries and final elections?

A. Oh, yes, yes. There has been a good bit of time.

Q. Do you know about all of the time spent by the Representatives attending meetings of the General Body and committee meetings?

A. Yes.

Q. Do you know that they were all paid for the time that they spent at those meetings?

A. Up to when?

Q. Well, you tell me, up to when they were paid?

A. I can't tell you the exact date, but I know that they haven't been of late.

Q. Do you know they were paid in '33, '34, '35 and '36 and '37—Part of '37 anyway?

A. That is right, that is right.

Q. For time that they spent on company property, on company time, attending meetings of the Employees Representation Plan?

A. I don't know about the attending of the meetings. I think that is right, but I am not positive of that, but I know when they were investigating the cases, yes.

Q. Do you know whether or not any parts of the mill were ever shut down in order to have meetings addressed by Employee Representatives?

A. Yes.

Q. How many times were different departments of the mill shut down?

A. Will you repeat the first part of that? I didn't hear it.

Q. Yes. I say, how many times do you recall that different departments of the mill were shut down in order to enable Employee Representatives to speak to the men?

A. Oh, I couldn't tell you that.

Q. Well, give me your approximation?

A. You give me any period, now, that you want to talk about, or do you want—

Q. You tell me what period that happened in, now?

A. Well, I know that at times during that time there was a wage increase or something where some of the fellows in one department had something up with their Representative and was taken care of, they would call the men together for some department and tell them just exactly the settlement on it, and go back to work, which was less lost time than to have gone around to each individual and tell them.

Q. Do you know about any meetings held directly before the strike?

A. Yes, now, on that you are saying "any meetings"? Not—you are not saying "any Representatives meetings"? You are saying "any meetings"?

Q. That is right, meetings in the plant.

A. That is right.

Q. We will come down to specific meetings, because I believe you know about them?

A. Right.

Q. You know that several departments were shut down in order to enable Employee Representatives to

speak to the men about the subject of the Employees Representative Plan generally, prior to the strike?

A. No.

Q. Couple of weeks prior to the strike?

A. No, not as representatives, in that form, I don't, no.

Q. How did they speak to them? You say they did speak?

A. Oh, yes, yes.

Q. These Employee Representatives?

A. Yes.

Q. Spoke at meetings?

A. Yes, that is right.

Q. Which were held a couple of weeks before the strike took place?

A. Open meetings.

Q. Open meetings held on the company property, during company time?

A. That is right.

Q. And you are now saying they didn't speak in the capacity of Employee Representatives, is that what you are saying?

A. I say open meetings. I don't know, I didn't ask exactly what the capacity. I suppose they were as representatives. They were speaking as workmen, is the way I would say it.

Q. But they were employee representatives under the Plan?

A. That is right. That is right. That is right.

Q. There was a difference between them and other workingmen who were not Employee Representatives, isn't that true, in the sense that they were holding office?

A. Yes. They held an office. I don't know that there was any difference. Not in the treatment that we gave those men.

Q. Well, you permitted these Employee Representa-

tives, men who held offices under the Plan, to address open meetings in the plant on the general subject of the Employees Representative Plan, prior to the strike?

A. No, no—Prior? How long prior?

Q. Couple of weeks or month?

A. No not the Representative Plan, I would not say, no.

Q. What, then, was it?

A. We tried to avoid a strike, keeping the men at work. Yes.

Q. Is that what Employee Representatives spoke to the men about?

A. That is the only thing that I ever gave any permission for. The only thing that I know of, from the request for the meeting.

Q. Let me see if I understand you correctly. You gave permission to Employee Representatives to address general meetings of the employees at the plant on company time, to avoid the strike?

A. You say "general meetings." That is in the mechanical department. That is our shops, all of the shops, maintenance shops there.

Q. That is right. Now, to whom did you give permission to hold these meetings?

A. Jack Jones was one of them.

Q. He is a Representative under the Plan?

A. That is right.

Q. Who else?

A. I am just trying to think. I don't know for sure, I don't believe I ever gave permission to anyone else. I am not sure of that, but I don't think I did.

Q. Now, you know there were a considerable number of those meetings in the plant, don't you?

A. In our department?

Q. That is right.

A. I don't think so. Two meetings since I remember.

Q. You remember at least two meetings?

A. Yes.

Q. Now, you have heard about meetings in other parts of the plant, is that correct?

A. Yes, in an offhand way. Yes. I don't—I am not interested in the—

Q. I am not interested in whether you are or are not interested, Mr. Manley. I am just interested in knowing whether or not it is not true, that you have heard that other parts of the plant also held meetings similar to the meetings that you have—

A. I imagine they had it.

Q. Well, do you know that? I am not interested in your imagination or speculation. You heard about it?

A. Well, I will say no, if you are asking me something I didn't see.

Q. I am asking you whether you heard about it.

A. Oh, I heard there were meetings, yes.

Q. Similar to the meetings these men held?

A. That is right.

Q. That is, Employee Representatives in other parts of the mill?

A. I don't know whether they were of Representatives. There was talks around. I know there was a lot of fellows interested in the movement. I know that.

Q. Now, the men that you gave permission to were Employee Representatives?

A. That is right.

Q. To whom else did you give permission to, besides Jack Jones?

A. I don't remember of giving permission to any of them. I can't offhand recall of any other place. The shops is what I have, and they are right there in a bunch.

Q. Did Mr. Jones come to your office and ask for permission?

A. I don't remember, whether it was the office or not.

It seems to me that it was between the office and the bridge, about 100 feet back from the bridge.

Q. Did you approach him or did he approach you?

A. That is right, that is right.

Q. How long did you have a conversation with him at that time?

TRIAL EXAMINER LINDSAY: There is a question was not answered.

(Question read by the Reporter.)

A. Oh, I think—I didn't get that. I am just a little bit deaf. I would rather you talk a little louder.

Q. I will try to speak as loudly as necessary.

A. All right.

Q. Did you approach him or did he approach you?

A. He approached me.

Q. State what the conversation was that you had with him at the time that he asked you to permit Employees Representatives to hold these meetings?

A. It went something like this: That there was a rumor out, which there had been at different times, that they were going to call a strike that night. And he asked about calling the fellows and talking to them that he thought that he could avoid the strike. I told him to go ahead. In fact, I had—I don't remember. I had one of the foremen, told him that it was all right to go up to meeting.

Q. You said what?

A. I had one of the foremen tell him to go ahead up to the meeting in the shops from the different parts of the shop.

MR. DAY: Are you going to take some time? It is near 12 o'clock.

MR. LAUTER: I will be a little while, so I will continue after lunch.

TRIAL EXAMINER LINDSAY: Do you want to adjourn now?

MR. LAUTER: Well, it is all right. Yes, I can finish after lunch.

TRIAL EXAMINER LINDSAY: All right, we will adjourn to 1:15.

(Thereupon, a recess was had until 1:15.)

After Recess

(Whereupon the hearing was resumed, pursuant to recess, at 1:30 o'clock p. m.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

WILLIAM I. MANLEY

the witness on the stand at the time of adjournment, resumed the stand and testified further as follows:

Cross-Examination (Continued)

Q. (By Mr. Lauter) Mr. Manley, before the lunch recess you were testifying about certain meetings that were held in the plant, and that you had given permission to Jack Jones, a representative in the Employees Representation Plan, to hold those meetings?

A. That I gave Jack Jones permission—an Employees Representation man—to hold meetings to keep the men at work to avoid a strike; right.

Q. You testified that there were two that you know about?

A. Right.

Q. You testified about a foreman and some instructions that you gave him?

A. Right.

Q. Now, will you please repeat what you said about the foreman?

A. That I didn't tell the foreman that it was all right to hold a meeting in the department; to hold a meeting.

Q. You did instruct the foreman—

A. That is right.

Q. —to permit that meeting to be held?

A. That is right.

Q. Are those the remarks that you made before the lunch recess?

A. That is right.

Q. Do you know how long prior to the calling of the strike on May 26th these meetings were held?

A. Oh, practically up until the strike. I would say one of them probably—on this I am only guessing because I didn't stop them at any time, but one was probably a week, and the other one, maybe 10 days. It may have been three days or five days apart, but that is when the meetings were held.

Q. Do you know whether or not any foremen were present at those meetings?

A. I don't doubt—I don't doubt—Not in talking—I would not say positive that either the boiler shop or the night turn foreman in the shop were not in the same building, but I don't know that. I imagine that they were in the same building. They didn't talk.

Q. What is that?

A. They didn't talk.

Q. But they were present while these talks were being given, as far as you know?

A. I imagine they were, that would be my thought. I think they were.

Q. Now, I don't believe you have identified for the record the place where these two meetings took place, at least the two that you knew about?

A. In the open hearth—Well, it is the only machine shop that Republic has, at Youngstown.

Q. That is in the machine shop?

A. That is right, the open hearth machine shop is what it is called.

Q. And where was that meeting held?

A. In the open hearth machine shop, the whole group of shops is right there together. The machine shop is the big shop.

Q. Were both meetings held in the same place?

A. That is right.

Q Was permission granted for the second meeting, or did the same permission cover both meetings?

A. No, I—as I remember it, I gave permission twice.

Q. To the same man, Jack Jones?

A. To the same man, under practically the same circumstances. I don't just remember the exact way of his request, I know that it was by request—I remember the one time that he met me, as I remember it, right at the front of the office, between the office and the bridge is the way I remember it. Just where the second time was I can't just exactly say the circumstances of the second request.

Q. You don't remember the conversation that you had with Jack Jones or whoever asked you for permission the second time, is that correct?

A. No, I can't say the wording. I know that it was practically the same thing, but I can't say the wording.

Q. Do you know how long those meetings lasted?

A. No, I would say they were very short meetings, but that—

Q. Approximately how long?

A. Oh, I would say not over ten minutes. That is my thought in the matter.

Q. Do you know who else spoke at those meetings besides Employee Representatives?

A. I don't think that there was anyone else spoke.

Q. And they spoke at both of the meetings that you had in the plant?

A. That is right. The one man, I believe, is the only

man that spoke. I believe Jack Jones is the only man that spoke.

Q. Were you present at either one of these meetings?

A. No, sir.

Q. Now, you stated before with respect to Mr. Fagin that a vacation is an indication of continuous employment?

A. That is right.

Q. Is that correct?

A. That is right. Depends upon the length—Now, I can't give you the exact wording on that, or the exact length of time. I believe it is three years entitles you to two days; and five years to four days; six years to five days, something like that, and it has to be—you have to be there over a year—I think it is three years to participate in the vacations at all.

Q. Well, that is something that they earn as a result of working in the plant a given number of years, as I understand?

A. That is right, that is right.

Q. And if a man is discharged, is that something that he gets?

A. No, sir. If there is a discharge he doesn't get that.

Q. Let me understand you. Are you saying that if a man who has worked there three years is entitled to a day or two or three days, and he has earned those three days by virtue of the fact that he has worked there three years, that if you should fire him he doesn't get those three days?

A. That is right, that is right.

Q. Is that the policy of the company?

A. He must be in the service of the company at the time he requests a vacation. If he does not request the vacation, then at Christmas time if he is still in the employment of the company he is paid the equivalent of his vacation time.

Q. I see. When you say "still in the employment of

the company," in speaking about vacations, the fact that he was working in the labor gang, is employment sufficient to bring him within the right?

A. That is right.

Q. To get his vacation privilege, is that correct?

A. The department does not mean anything. That is right.

Q. It doesn't matter whether he has been demoted or promoted, once he is working there he has the right to ask for the vacation that he has earned?

A. That is right, that is right.

Q. And if any of the men who were off for some time or for couple of weeks came back and went to the labor gang, that didn't deprive them of their vacation privilege?

A. No.

Q. You mean sometimes for 30 days or for 60 days?

A. There have been cases of that kind and they have always put them back in the plant. I am not speaking now of the depression that we had when certain mills didn't work, and when the mills didn't work and the men came back they maintained their standing.

Q. If an employee ceases actual working for the Company, say for a period of 30 days, he may nevertheless be entitled to the rights of an employee for that privilege?

A. Unless he wasn't dropped for cause.

Q. Now, you testified about a man by the name of Varancick?

A. That is right.

Q. Felix Varancick?

A. That is right.

Q. You testified you think they are the same man, this Varancick and this Valezissi?

A. In my mind, I am certain they are, in speaking of the same job. I am certain they are the same man.

Q. You saw him at Stop 5 when he had a club in his hands?

A. Yes, sir.

Q. And he was refused reinstatement?

A. That is right.

Q. And that was because he carried a club in his hands?

A. I told him that I wouldn't take back any men that carried a club on the line in his hands.

Q. What is that?

A. Any man that carried a club on the line because his boy even told me that he carried a club on the line.

Q. You say his boy?

A. Is working in the mill for the Company. Stopped me and said that they had clubs on the line and said that his father had a club.

Q. You are referring to this man's boy?

A. That is right.

Q. This man's boy had a club in his hands, too?

A. The man's boy talked to me about the father. The boy works at the Electric Tube.

Q. The boy himself didn't have a club in his hand, did he?

A. Not that I know of.

Q. It is a general policy of the Company not to reinstate those who have clubs in their hands?

A. Out of the line.

Q. Is that correct?

A. Yes, sir.

Q. And you have yourself refused employment to a number of men who have carried clubs on the line?

A. That is right. When you have a number, not a large number, but the number I know of, that is right.

Q. In the case of refusing reinstatement to those men, have you in each case conferred with them about whether or not they did have clubs in their hands?

A. That is right.

Q. In each case did they admit it or deny it?

A. No, some of them admitted it and some of them denied it. Not all, just one that I know of, offhanded, really came and denied it.

Q. Let us concern ourselves with the case where the man carried a club in his hands came to you and denied it, as you say? What are the circumstances then?

A. He was seen by a number of people in an affidavit saying he had carried a club.

Q. You mean employees in the mill?

A. Yes, sir.

Q. Who made affidavits that they saw him on the picket line with a club in his hands?

A. That is right.

Q. Even though he carried a club, you refused him reinstatement?

A. Yes, sir. One I saw had a club—just a little stick—not a club.

Q. These men testified that he had a club?

A. Yes, sir.

Q. And they described the—

A. Not in all cases.

MR. DAY: You say testified or just what do you mean, Mr. Lauter?

MR. LAUTER: I am referring to his testimony. If I am using "testified," I don't mean that word.

Q. My question was: What was the nature of the description of this club given by the men who have given affidavits to you about the individual you have refused to re-employ because he had a club in his hands?

A. The affidavit on that particular man, and that was made out by myself. The affidavit was made and tells that the man admits that he had a club on the line.

Q. Did the men say he was whittling a stick?

A. No.

Q. That is the case of the man you didn't take back?

A. Yes, sir.

Q. That didn't mean that whoever says that he was carrying a club in his hands on the line, you didn't see whether or not he had a club in his hands, is that correct?

A. That is correct as far as I know.

Q. Has anyone given you an affidavit to the effect that he had a club in his hands?

A. Yes.

Q. It is on the basis of those affidavits that despite the denial of the man that he did have a club in his hands you refused to reinstate him?

A. That is right.

Q. And that has been your policy in handling those cases?

A. That is right.

Q. Now, is that a policy which you have devised yourself or have you gotten instructions from anyone else with respect to executing that policy?

A. That is a Company set-up about men who have had clubs on the picket line; those law-breakers on the going-back-to-work.

MR. LAUTER: I move that the comment that they were law-breakers be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

Q. I am asking you whether or not those were instructions which you received about the employment, or the reinstatement rather, of the men who had clubs in their hands on the picket line.

A. Yes.

Q. Now, who gave you those instructions?

A. I won't be too specific about that; it was the management higher-ups. I am not sure whether it was the District Manager or the Assistant, Company policy.

Q. It was either the Assistant, Company policy, or the District Manager? What are their names?

A. Levantry and Ben Norton.

Q. Now, when did you have a conversation either with Mr. Levantry or Mr. Norton about the policy regarding the reinstatement?

A. Oh, I think it was the day before or the day the mill opened; somewhere in there. I won't be too specific about that.

Q. That is, before June 25th when the mill opened, is that correct?

A. Or the day it opened; it was around there some time.

Q. The time that the mill opened?

A. That is right.

Q. The strike took place on May 26th and the mill opened on the 25th of June?

A. That is right.

Q. A period of about a month, and prior to the opening of the mill you got instructions not to reinstate anybody whom you could identify, or from whom you had received affidavits concerning the carrying of clubs on the picket line, is that correct?

A. That is right.

Q. Now, did you have any instructions as to whether or not the men would be granted a hearing in which they would have an opportunity to state whether or not they did carry clubs?

A. I—

Q. Did you receive instructions of that nature?

A. Well, I would talk to everyone that did. In that particular line, when you say that all the men were told—

Q. Now, just understand my question. I am asking you whether or not you received instructions to give these men a hearing?

A. What do you mean, a hearing?

MR. LAUTER: I will withdraw my question.

Q. What instructions were given you by Mr. Levantry or Mr. Norton at the time you were given instructions

about hiring these men that were carrying clubs on the picket line?

A. I was to tell the men exactly what was against them in the affidavits, and we were not to take them back to work or put them on.

Q. Is that what the instructions were?

A. That is right.

Q. That whatever was stated in the affidavit you were not putting them back to work?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. That if you had an affidavit that the men had carried clubs on the picket line, you would not put them back to work?

A. Yes, sir.

Q. There were or there were no instructions about a hearing? I am asking you about the instructions.

A. No, I wouldn't say there were instructions; I won't be too sure of that.

Q. That is, either Mr. Levantry or Mr. Norton, whoever gave you instructions, not to hire or reinstate men who were on the picket line carrying clubs, what were your instructions with respect to giving them a hearing as to whether or not they carried clubs?

A. You are asking me a question there that I am not sure about; I know I have told them to talk to Mr.—

Q. I am not asking about that; I am asking you about what instructions you got.

A. I may have had instructions.

Q. Didn't you testify a moment ago that you didn't have instructions?

A. I know that what I told the men—I am not certain whether I had instructions or I didn't; my opinion is that I didn't. I am telling you as close as I can the truth.

Q. I want you to do that.

A. I don't want to make positive statements if I am not certain.

Q. I am not asking you about that. Now, about how many affidavits have you against the men carrying clubs on the picket line?

A. In 1600 men that we employ I would say a limit of possibly six. I haven't counted them but I think six.

Q. You have only six?

A. I think six is about right; not very many more. Ten would be a top—I think it is closer to six.

Q. In each one of those cases that you called the men in to talk to them—

A. The only one I talked to was as they came down.

Q. Is that after their jobs?

A. That is right. I didn't call any of the men back to work.

Q. Did you have your foreman or someone else go out and tell them to come back to work?

A. No.

Q. In no case?

A. No.

Q. When these men applied for reinstatement when they had work they were referred to you by the employment office?

A. Not in all cases; only when they came and asked to see me from the police officer, the policemen sent them to me. They asked to see Mr. Miller, and if I wasn't in, the policeman would tell them to wait, and he would come to me and say there was someone there and I would come over and talk to him.

Q. Now, out of the 1600 men working, how many of them are working in the mill?

A. I haven't checked that yet but I would say better than about 1500—close to 1520; somewhere along there.

Q. That is, only about 80 men who were formerly employed are now still out on strike?

A. That is right.

Q. I am not talking about new men that you have taken back.

A. No.

Q. I am talking about the old men or those who were out on strike.

A. That is right.

Q. Now, out of those 80 men how many did you say were carrying clubs?

A. Six.

Q. That is, there would be about 70 or 75 left?

A. That is right.

Q. Now, either out on strike or for some other reason, they haven't been granted re-employment?

A. That is right.

Q. Is that correct?

A. That is right.

Q. What other reasons are there for not granting re-employment, apart from carrying clubs?

A. Some of them never came around for a job. Some of them have other jobs.

Q. Is that the only reason?

A. Some of them have not come down until as late as last week, and their jobs have been filled up.

Q. You mean filled up with new men?

A. That is right. Sometimes in the labor department, sometimes new men.

Q. When you say "new men" you mean men who formerly did not work in the plant, is that correct?

A. That is right.

Q. As distinguished from men transferred from other departments?

A. I call them new men when they come as new men with the company.

Q. That is my question to you. Of the 1600 men work-

ing in your department, how many of them would you say were new men?

A. I don't think we are up to the full 1600. I don't think—Wait a minute, now let's be sure. I would say I probably got in the neighborhood of forty—maybe 42 men.

MR. DAY: He didn't say 1600 were working there now. I think you got that mixed up. I think he said there were 1600 that he thought there were about 1520—what was it?

THE WITNESS: Yes.

Q. (By Mr. Lauter) Out of the 1520 of them, I thought they were all old employees who had been either out on strike or while the mill was closed down, who had come back?

A. That is right.

Q. But apparently out of those 1520 there was at least 40 were brand-new men?

A. That is right.

Q. Who never worked in the plant before?

A. That is right.

Q. Been hired since the strike?

A. That is right.

Q. Now, some of these new men are occupying positions that were held by others who had been out on strike?

A. Oh, yes.

Q. And have you refused employment to any of the strikers who have come back for any other reasons besides the fact that they carried clubs?

A. Yes, interfering with the railroad. Sitting on the railroad track to stop cars from coming in and out of the plant. Throwing switches against the cars. Getting coal into our boiler house.

Q. In each case have you identified the individual who has done that?

A. Oh, yes, the biggest percentage of them will admit.

Q. I am asking you—

MR. LAUTER: I move that be stricken from the record.

MR. SMITH: Well—

TRIAL EXAMINER LINDSAY: Yes, that is stricken from the record.

Q. (By Mr. Lauter) I am asking you whether or not, in each case you have identified the men?

MR. SMITH: May we have an exception, your Honor?

TRIAL EXAMINER LINDSAY: Oh, yes, the answer may go out of the record. It is not responsive to the question.

MR. LAUTER: There is an automatic exception, as I understand it, to each overruling of an objection.

Q. (By Mr. Lauter) In each case have you identified the men?

A. How do you call identifying them?

Q. By name? Do you know who they are, who did it?

A. Oh, yes.

Q. You say affidavits of men who are working in the plant?

A. That is right.

Q. In each one of these cases have you given these men a hearing?

A. Yes, sir. That is—

Q. That is, if they come back to the plant asking for their jobs?

A. Depends upon what you call a hearing.

Q. Do you speak to them, tell them what they were charged with?

A. I haven't refused to speak to any man who has worked for me, who comes down. I never do.

Q. And you tell them about the fact that there was an affidavit?

A. Yes, sir.

Q. Stating that such an such an offense was charged against them?

A. That is right.

Q. Is that correct?

A. That is right.

Q. And if you were satisfied in your own mind that the man—the fact that the man denied that particular offense untruthfully, why you would not take him back on?

A. Yes, that is right. I have never had any other instructions than if they convinced me that the affidavit wasn't right—Wait, let's get this question, be sure I get it right. That if they convinced me that they were not out there, we would disregard the affidavit, is that your question you want answered?

Q. Well, you can answer that question if you construe it that way. Naturally, if you were convinced that these men had not committed the offense, you would not have refused to reinstate them, if they come in.

A. Oh, no.

Q. But if it was just a matter of the word of one employee against another—Wasn't it, in each case?

A. No. As far as the affidavit went, yes. As far as seeing the men out there, no. The fellows that made these affidavits—there was a lot of them—who thought there was some question, that the affidavits were never made out.

Q. I am asking you whether or not it is not true that in each case there was an affidavit of an employee that was filed with you?

A. What is that?

Q. I say, their affidavits were made out by the employees, weren't they?

A. Oh, yes. Yes.

Q. And in each case it would be the word of one employee against another?

A. Yes.

MR. DAY: If he denied it.

MR. LAUTER That's right.

Q. (By Mr. Lauter) Now, what was the policy in collecting these affidavits? Were any instructions given out by the company with respect to the filing of these affidavits with you? How did the men know that they were going to file affidavits?

A. They were all told to be on the lookout for all unlawful acts on the picket line and around the plant and all violence.

Q. When were they told that?

A. Shortly, I would say shortly after the first night, after we seen the way things went the first night.

Q. You mean after the strike had taken place?

A. As soon as it started.

Q. How did you notify the men to that effect?

A. What?

Q. How did you notify the men in your department? You had 1600 men?

A. Oh, these are made out by men who were in the plant. Mostly foremen.

Q. You mean these—By foremen?

A. A good deal of them. Yes. That is mostly what we had in the plant.

Q. I see. These affidavits—

A. You don't just shut a plant down, you know, and walk off. They don't shut down that way.

Q. Let me understand you perfectly clear. These are affidavits made out by men, mostly foremen, who were in the plant, after the strike was called?

A. That is right. That is right.

Q. And they were instructions given to these men, that were informed to watch out for various acts by employees on the picket line?

A. That is right.

Q. Now, did they also report to you about employees who did not carry clubs?

A. No.

Q. You mean they were told to watch out for clubs?

A. For clubs and violence.

Q. That is not the only thing they reported about, is that true?

A. That is all.

Q. Just that?

A. That is all.

Q. Did you have a form affidavit?

A. What?

Q. Did you have a form affidavit?

A. Yes—Now, wait a minute. What do you call a form affidavit?

Q. Mimeographed or typewritten form?

A. That is right. That is right. We had the clerks in our office make them out. He is a Notary Public.

Q. Did you issue instructions as to the nature of the forms to be used?

A. No, I didn't issue an order as to the form.

Q. Who gave you the forms that were to be given to these employees who remained in the plant, who were watching out for men carrying clubs? Who gave you those instructions?

A. There was no—

Q. These forms?

A. There was no forms given out. It is made out by—typewritten up by the clerk who was Notary Public in the office. I am speaking of my own men, now.

Q. My question to you before is whether or not they were form affidavits, whether or not they were typewritten affidavits?

A. They are typewritten, yes. That is, he would typewrite them. Typewritten right in the office. They were typewritten right in the office.

Q. Now, at the time these employees were told to watch out for unlawful acts, that is, the employees who re-

mained in the mill, were they also told what would be considered unlawful acts?

A. Club carrying and violence.

Q. Well, state what they were told—Did you issue the instructions to them?

A. To my men, yes.

Q. Did you call them together?

A. No, I would not say that. But I may have talked to two or three of them at a time or one at a time, just as I met them. I couldn't call them together. They had different stations. You had pumps running, you had to keep them there.

Q. You would go to them and speak a word?

A. Either I or the assistant. I didn't speak to all of them.

Q. They were told to watch out for men carrying clubs and acts of violence?

A. That is right.

Q. Is that the way you put it to them?

A. I think it is. That is the sum and substance of it.

Q. And in some cases did they report acts which were not unlawful?

A. No. But there are some reports of where fellows calling them names, that they knew, that there was nothing done about it at all.

Q. You mean that wasn't put in the affidavit?

A. No, sir. No affidavit, or no action taken by Republic.

Q. Did you speak to the men who were filing the affidavits?

A. What?

Q. Did you speak to the men who were filing the affidavits with you? Did you confer with these men while they were making out the affidavit?

A. Oh, yes—No, not while they were making them out. I don't get just exactly what that question—Did I

talk to them while they were making it? Just exactly what do you mean by that question, now?

Q. Well, the question is not very difficult, Mr. Manley. These men came into a room and they made up affidavits, didn't they?

A. That is right.

Q. Were you there at the time?

A. No.

Q. At no time?

A. I would not say that I may not have been—mostly I would be in the other room that I— there is two rooms a good deal like this room and this room. My office is there. The clerks is out in this office. I don't remember of a single instance where I was in the same room when the affidavit was made out, with the exception of the one affidavit that I am on.

Q. Did these men speak to you before they made out the affidavits?

A. Offhanded, I remember of one, came in and told me that he had seen a certain fellow with a club.

Q. You said "Go inside, make out an affidavit", is that right?

A. That is right.

Q. Now, the forty new men are there in your department, is that correct?

A. What is that?

Q. The forty men that you testify as being new men, are the forty men in your department?

A. About that number.

MR. LAUTER: That is all.

TRIAL EXAMINER LINDSAY: We will have a short recess.

(Recess taken.)

TRIAL EXAMINER LINDSAY: The hearing called to order.

JOHN H. GRAFT

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) Will you please state your full name?

A. John H. Graft.

Q. Where do you reside?

A. R. D. 4, Youngstown, Ohio; that is in Boardman.

Q. That is Boardman?

A. Boardman, Ohio. That is the mailing address—R. D. 4, Youngstown.

Q. How long have you lived in Youngstown?

A. Since March 16th, 1920.

Q. How are you employed?

A. By the Republic Steel Corporation.

Q. What position do you hold in the Republic Steel Corporation, Mr. Graft?

A. Electrical superintendent.

Q. Is that electrical superintendent?

A. Yes, sir.

Q. Just speak a little louder, please.

A. Electrical superintendent.

Q. Now, how many men do you have in your department, Mr. Graft?

A. Between six and seven hundred.

Q. In connection with your position, what are your duties?

A. Why, I supervise the engineers, construction, maintenance, and operation of the electrical equipment.

Q. Throughout the entire plant?

A. The Youngstown District, yes.

Q. The Youngstown District?

A. That is right.

Q. Do you remember a man by the name of Joseph Gallagher that formerly worked for the Republic Steel Corporation in your department?

A. Yes, sir.

Q. You knew him, did you?

A. Yes, sir.

Q. How many years have you known him?

A. Well, I knew him about, possibly 10 years ago when I was at the Sheet & Tube at the same time he was at the Sheet & Tube. I would say for the last year and a half.

Q. You have known him in this capacity for the Republic then for how long?

A. About a year and a half.

Q. During the time previous to that, from 1920, were you an employee of the Sheet & Tube Company?

A. That is right.

Q. Were your duties of a similar character with them?

A. Very much the same, yes.

Q. Now, Mr. Gallagher has testified in regard to an incident which he claims in his testimony occurred on the 6th of January. I wish you would tell the Court whether or not you remember the incident of the time that he was sent home from the plant.

A. Yes, sir, I do.

Q. Now, have you checked up to see whether or not the date of January 6th as given by Mr. Gallagher is the correct date of that occurrence?

A. Yes, I have checked and it is not January 6th.

Q. Now, will you tell the Court the date on which this matter did occur?

A. He last worked for us about 1 a. m. on January 23rd.

Q. January 23rd?

A. That is right.

Q. Was it at that time that the incident about which he testified occurred?

A. Yes, sir.

Q. How do you determine that, Mr. Graft?

A. From his clock card and the date in the time department record.

Q. You have checked both those, have you?

A. Yes, sir.

Q. Was there any special condition in connection with the mill that gives you any further check on it?

A. Yes, sir, there was a flood in the Mahoning Valley on the 21st, 22nd and 23rd of January.

Q. Now, Mr. Gallagher was employed in what capacity in your department?

A. As a motor inspector in the valve division.

Q. Now, what were his duties there in that department?

A. His duties were to maintain, inspect and service the electrical equipment of his particular area.

Q. I wish to refer you to a house that he spoke of as being the control house. I wish you would state to the Court whether or not his duties included an inspection of that particular house.

A. No, sir, it did not.

Q. How long had you been at the plant previous to the morning of January 23rd?

A. I had been there since 1 a. m. the previous day.

Q. That is 1 a. m. of January 23rd?

A. January 23rd, that is right.

Q. What was the turn or the hours at which Mr. Gallagher worked?

A. 11 to 7.

Q. What is that?

A. 11 p. m. to 7 a. m.

Q. Did you see him and have a conversation with

him on the night of January 22nd or the morning of January 23rd?

A. January 22nd I talked to him about—about 2 a. m. on the 22nd and 5 a. m. on the 22nd.

Q. Now, where did you first see him about 2 a. m.?

A. He was in the No. 2 electric welding mill working on the control of a pipe kick for one when I first ran into him.

Q. Was there any conversation you had with him at that time in connection with the water conditions?

A. Yes, sir.

Q. Just state what that was.

A. I told Joe that there was—that we were expecting a flood. I didn't know how bad it was going to be, and that he had many motors in his location that were below what we expected the flood to be. He had many manholes there in his section, and that we were looking for the water to come that high; that was the water prediction that it was going to be that high. I asked him particularly to be especially on his toes. That was the conversation that I had. Another conversation later in the morning.

Q. About how long did that conversation last?

A. Probably three or four or five minutes at the most.

Q. Did he answer you in regard to that?

A. Yes, he said he understood the water was coming there and that everything was all right so far as he was concerned.

Q. Now, what effect would it have on the operations of this mill if the water got up to the motors that you have spoken of?

A. We would shut it down.

Q. And that would shut down about what area and how many?

A. Well, I imagine in the electric weld mill there is—

I am not positive of this figure, I imagine seven to eight hundred men in the electric weld mill proper.

On the morning of the 23rd we shut down our blast furnaces; we shut down our open hearth furnaces; shut down the blooming mill furnaces; and the plate mill, that was shut down on account of flood.

In the morning sometime around between midnight and 8 o'clock in the morning. I remember that 8 o'clock on the morning of the 23rd was the last heat taken out of the open hearth. We were worried about taking the last heat out of the open hearth.

Q. That was on account of the flood conditions that you were worrying about it?

A. That is right.

Q. Now, after talking with Mr. Gallagher around 2 o'clock on the morning of the 23rd, state briefly what you did before you had the second conversation?

A. I went on down, after I talked to him, I went on down through the mill west, and I met one of the mechanics and asked him if the water was giving him any trouble. I don't recall which one of the men—

Q. Now, instead of getting into the detail of what you talked with them, just give a brief outline of what you did?

A. I asked this mechanic if he was having any trouble and he said, "Yes," the water was coming up into the valve pits at No. 3 mill so I left him and on my way back Joe was still working on the same job in the same location and I said to Joe, "Where is this valve pit that they have? They are putting the steam syphon in?" And he said, "It is down between No. 2 and No. 3 mill." So I went down and looked at that to find out—found out the water was about 12 inches from the top of the valve stems in the pit, and on my way back I told Joe, I said, "Now, the water is up within about 12 inches of the top of the valves there, and still coming up, so you better watch your step."

This was probably—that is when I was in the mill, first session. Then I left that mill and went to the blast furnaces, open hearth.

Q. About how long did it ordinarily take you to cover your inspection of the territory covered by your jurisdiction?

A. You mean in the electric weld mill?

Q. No, that you covered on this particuiar night?

A. Well, a couple of hours

Q. Yes.

A. All depends on whether I run into trouble some place, and I would stay there and do what I could.

Q. Was there some particular section of the mill that was more in danger than others, from this flood?

A. That is right.

Q. Now, you speak about these motors. Just give the Court an idea of the location of them, as to how they would be affected with the water?

A. Well, for example, in the plate mill there is a tilt table that passes the steel back and forth between the rolls, and the motor and gearing that operates this table is probably eight feet below the yard level or floor level of the mill.

Q. Eight feet below?

A. That is right, and that means that that piece of equipment would be subject to damage eight feet before the motors at yard level.

Q. Before the water would reach the floor level?

A. That is right, and what happens, each one of these pits is naturally drained by the sewer, and as the river rises the water backs in from the sewer up into these holes and covers the motors. Hot beds, the same way, the same story is true on the hot beds.

Q. Would you say that the condition existing there on the night of the 22nd or day of the 23rd would amount to an emergency situation?

A. Oh, absolutely.

Q. And in discussing this with Mr. Gallagher did you in any way indicate that to him, so that he understood it?

A. Yes, sir.

Q. Then you say Mr. Gallagher's time of service expired at 7 o'clock on the morning of the 23rd?

A. That would have been his time to quit, yes.

Q. Yes.

A. But he only worked two hours on that turn.

Q. Then when would he be on duty again?

A. 11 o'clock the following night.

Q. Now, you remained in the mill throughout the 23rd, and did you pass down through the part of the mill where Mr. Gallagher should—would that come within the scope of his inspection, on the morning of the 23rd?

A. Morning of the 22nd I was in the mill at 5 a. m.

Q. Oh, yes, well, then the conversation that you are speaking of was at 5 o'clock on the morning of the 22nd, is that correct?

A. Yes, I had—On the night of the 22nd I had three conversations with Gallagher, two of which were about twenty minutes apart.

Q. Yes.

A. And that was between—sometime between 2—1:30 and 3 o'clock in the morning, I would judge. It would be about that. And the other one was, I should say, around 5 a. m., between 5 and 6 a. m. of the same day.

Q. That is, of the 22nd?

A. Yes, sir.

Q. Then his time to go on again would be at 11 o'clock on the night of the 23rd?

A. 22nd.

Q. The night of the 22nd?

A. That is right.

Q. That is right?

A. He would be in—

Q. You remained in there throughout the day of the 22nd?

A. That is right.

Q. Now, when did you next see Mr. Gallagher after seeing him at 5 o'clock on the morning of the 22nd?

A. About 15 minutes of 1:00 a. m. on the 23rd.

Q. Now, on that morning, prior to the time of seeing him, had you passed through the portion of the mill that was under his jurisdiction?

A. Yes, sir.

Q. Once or more than once?

A. Once.

Q. Did you see Mr. Gallagher?

A. No, sir.

Q. Did you make any inquiry as to your inspector in that department?

A. Yes, sir, I asked the superintendent of the electric weld mill if he had seen any of my men in that area. I met him in that particular area or down in the mill probably two or three hundred yards.

Q. What was his answer to you?

A. He said he hadn't.

Q. And then what did you do following that?

A. I went from there to the plate mill, the plate mill and my office.

Q. Where is this located? Where is your office located?

A. Center Street Bridge.

Q. How far from the Center Street Bridge was the territory that was under Mr. Gallagher's jurisdiction?

A. About five or six hundred yards.

Q. Did you receive any communication while you were at your office, relative to your inspector in that vicinity?

A. Yes, sir.

Q. And what was the information that you received?

A. Well, Walker called me and informed me that he thought he could tell me where some of my inspectors or at least one of them were.

Q. And what did you do, as a result?

A. I said, "I will be right over."

Q. And did you go over to this mill, that is the electric weld mill, is it?

A. Yes, sir.

Q. Now, when you got over there, will you just detail to the Court what you saw and did?

A. I met Mr. Walker at the end of the mill, when I came in. He knew which door we usually travelled through, and he was waiting for me. He said, "Come on, I think I can show you where one of your inspectors are," so we walked down through the mill, and we come to this control house.

Q. Where is that located, with reference to the electric weld mill?

A. It is probably 100 yards from the—100 yards from the east entrance of the mill. That is, the control house. And we walked down there together and he said, "I think there is some of your inspectors, or at least one of them in that shanty." So I walked over to the door and I said, "No, there is a lock on the door." And he said, "Go look at it." So there was a lock on the door, it was a padlock on the outside of the door.

Q. Was the padlock closed?

A. Yes, sir, the padlock—

Q. Or locked?

A. Yes, sir.

Q. Just state what your examination of that showed?

A. And when I examined it I found out that the pin through the hinge part of the padlock had been removed.

Q. And what effect did that have, in connection with opening or closing the door?

A. You could open the door with the lock in place, the padlock in place.

TRIAL EXAMINER LINDSAY: Just a minute, read the answer.

(Answer read by the Reporter.)

Q. Do you mean by that, Mr. Graft, that the padlock could remain locked and you could still open and close the door without unlocking the lock?

A. Yes, sir.

Q. Just describe what this hasp was, that you spoke of? Just describe to the court how that—

A. Well, it was an ordinary hasp and staple on it, with the hinge part slotted and the staple goes through the hinge. And the pin through the hinge had been removed, leaving one-half of the hinge in position, and locked through the staple with the locked padlock.

Q. And then where would the other half of this hasp be?

A. On the door.

Q. And it would be fastened to the door?

A. Yes, sir.

Q. Did you endeavor to get into the shanty?

A. I tried the door. I couldn't.

Q. You tried the door and couldn't get in?

A. Yes, sir.

Q. Now, just tell what you did following that?

A. I tried the door and couldn't get in. Mr. Walker says, "You can't get in there, it is locked on the inside." I tried the door again and determined that it was locked or hitched some way on the inside and I said to George, "Do you have any idea who is in there?" And he said, "No, I don't." I said, "Well, we will wait and see who is in there." So we waited around there probably 20 minutes, 30 minutes.

Q Now, I will ask you as to your—previous to this period, Mr. Graft, was there anybody in your office during

the time you were there at the electrical welding mill?

A. That is, in my own office?

Q. Yes.

A. Yes, sir.

Q. If anybody in any part of the mill had needed you, how would they attempt to reach you?

A. When they wanted me in the electrical mill they would send somebody over for me.

Q. Would they call your office first?

A. Yes, sir.

Q. Did you leave any instructions at your office where you were going?

A. Yes, sir.

Q. Now, after waiting 20 minutes to a half an hour, around there, just state what you did?

A. Well, we waited around and looked to see if we could find out who was missing, and George suggested that we blow for the electrician.

Q. Well, what do you mean when you say blow?

A. That is, we have a signal there. In other words, five blows on the whistle means that an electrician is wanted for service. The man blowing would stand around the whistle until an electrician arrived.

Q. Is that the signal that was given then?

A. Yes, sir.

Q. About what distance from this control house that you speak of is the signal whistle?

A. About 30 feet.

Q. Where were you when the whistle was blown; this signal whistle?

A. Standing in front of the control house.

Q. Now, state what occurred after the whistle was blown.

A. Joe Gallagher came out of the control house.

Q. State what you observed in regard to him as to coming out.

A. Well, he was very much excited and he hardly had his eyes open; he was very sleepy, had the indications of a man that had been sound asleep—rubbing his eyes.

MR. LAUTER: I move that the remarks of the witness with respect to the man being sound asleep and rubbing his eyes be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken.

MR. SMITH: That is, the testimony of being asleep or being sound asleep?

TRIAL EXAMINER LINDSAY: Yes.

Q. Just state what else you observed. Don't state your conclusion. Just state what you observed, Mr. Graft.

A. I observed that he didn't seem to understand what I was talking about.

MR. LAUTER: I move that the answer be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken.

Q. Well, say if you can your observations instead of conclusions. Just what you saw.

A. I saw him rubbing his eyes and looking around.

Q. Did you observe the condition of his eyes? Anything unusual about them?

A. Yes, sir, they were red and glassy.

Q. Now, did you have any conversation with him when he came out?

A. I did.

Q. Just state to the Court what the conversation was.

A. I said: "Joe, you cannot sleep on the job. I can't sleep on the job and neither can you. If you want to sleep, you will have to go home and get some sleep. It is bad enough to be penned up in that control house any time, let alone when we are facing a condition like we are tonight." He said: "What do you mean, that I am discharged?" I said: "No, I didn't say that you are discharged

but you are of no use to me sleeping in that shanty." He said: "Well, that means I am discharged?" I said: "No, that doesn't mean that you are discharged. You go home and get some sleep." He said: "Well, I want my money." I said: "I didn't come out here to pay men off; I am not out here to pay men off. I am trying to do my job which you should be doing." I said: "You go home and get some sleep, and when I want you, I will send for you."

Q. Now, during this conversation I will ask you whether or not this part of the conversation took place in which you said: "Well, you have been sleeping in there, you can go ahead home until I send for you?" and that in his answer he said: "You have got to give me a better answer than that before I accept it." Did he make it?

A. No, sir, he didn't.

Q. And following did he say—or rather, did you say to him: "What other answer do you want?" And that he said to you: "I either want my money or I want a definite answer one way or the other?"

A. I didn't.

Q. And did you say to him: "Well, Joe, I know you could not have been sleeping if you answered the whistle so soon, but if I was you I would go ahead on home."

A. No, sir.

Q. Did you or didn't you say that?

A. I did not say that.

Q. And did he say to you: "No, I won't go home until I get a definite answer. That is, either getting my time or telling me when to come back. This thing of sending a man home until you send for him, it don't go with me. It might go with someone else." Did he say that?

A. No, sir.

Q. Did you have any further conversation with Mr. Gallagher subsequent to that time?

A. Yes, sir.

Q. When was that?

A. When he came after his pay.

Q. Do you remember when that was?

A. Not the exact date, no.

Q. What was the conversation you had with him when he came after his pay?

A. He was sitting in my clerk's office when I came in, being out in the mill, I said, "Hello, Johnny." He said: "How about my money?" I said: "All right if you want it." He said: "O. K., let us have it." So I turned around to the clerk and instructed him to make out on order for Joe's money, and he signed it, and that is the last I talked to Joe.

Q. Is that the extent of the conversation?

A. Yes, sir.

Q. Did he ever at any time say anything to you in regard to wanting to go back in the employ of the Company?

A. Never has.

Q. Have you had any conversation with him since the one you have just described when he came after his pay?

A. I have never seen him.

Q. I wish you would describe to the Court as nearly as you can what this control house is, the dimensions of it, and the purpose for which the control house is used.

A. The control house is located near two columns—building columns—on top between two mills—that is about 25 feet long—on top of this control house—

Q. About how wide?

A. About 20 inches wide.

Q. 20 inches wide?

A. 20 to 24 inches.

Q. What head room was there inside of it?

A. About 8 feet.

Q. All right. Go ahead.

A. On top of this control house is the contractor panel and the resistance, the rheostats, controlling the operation of the forming and the welding mill and the No. 2

mill. On one side of the power control house are instruments which tell about the speed, the current, of each individual drive, and where it is. On that control panel is located the controls. The back of the power house is purely a protective matter to protect any individual from coming in contact with the live electrical studs and to protect the instrument from coming in contact with them and causing a mechanical damage from anything bumping or falling against it. The house is completely closed up and locked and supposed to be locked.

Q. Did you go inside the control house after you had this conversation with Mr. Gallagher?

A. Yes, sir, I did.

Q. State what you discovered in there when you went into the control house.

A. I found—

Q. Other than the usual equipment, if anything?

A. I found two boards in there—three boards, as a matter of fact. One of them was resting on a nail keg, and one forming a back rest, and one forming a seat on the back, and this seat was a piece of insulating material that we used for covering the drinking water lines. On each side of this horizontal board there were three space heaters.

Q. Now, state what you mean by space heaters.

A. A space heater is a unit which we use for an electrical heating of cabs of the overhead traveling cranes.

Q. Was there a resistance coil arrangement?

A. It is an electrical heater.

Q. An electrical heater?

A. Yes, sir.

Q. Now, go ahead. What, if anything, else did you find?

A. I found a broken-down office chair in the opposite end of the room.

Q. From the location that you found these things in

that you describe, what would you say that they were used for, if you know or can tell?

A. My observation was that they were used for a bed.

Q. Is this control house that you speak of a place where material of this character could or should be stored?

A. No. We have a rule prohibiting the storing of inflammable materials in the control house. We also have a rule that nothing that is not used in the operation of a piece of electrical equipment shall be in the control house.

Q. Had you at any time that you recall prior to this, had occasion to look into the control house before this night or morning?

A. I had been in there with the foreman of the district before, yes.

Q. Do you remember how long before this meeting that you had been in there?

A. Every three weeks.

Q. Was there any such—any of these utensils or boards or kegs or such matter in there at that time?

A. No, sir.

Q. Was this control house a place that was designed for or in which inspectors or others were permitted to loaf or rest?

A. No, sir.

Q. You may state whether or not there was any danger in connection with the use of the space heaters in this control house.

A. Yes, sir, there is a fire hazard.

Q. A fire hazard?

A. Yes, sir.

Q. Just state how you mean that.

A. Well, any inflammable material coming in contact with an exposed space heater will ignite the space heater. It is used in a protected metal case wherein the combustible material cannot come in any direct contact with the space

heater. If anything does come in contact with it, it is highly inflammable.

Q. What would have been the nature, Mr. Graft, of the equipment that was in this house that you have described of a fire in there? What would have been the effect?

A. It would have shut the mill down.

Q. About how many men you say would have been affected by the shutting down of the mill that was controlled by this equipment in this control house?

A. On the mill proper and work incidental to the mill probably would have been 200 men.

Q. Had you any knowledge prior thereto of Mr. Gallagher's using this space for a resting place?

A. None whatever.

Q. Was there anything, Mr. Graft, in connection with the duties of Mr. Gallagher that would require him to be in this control house?

A. None whatever.

Q. Did he ever have a key to the control house?

A. I think not.

Q. That is, would it be necessary for him to have a key in connection with the performance of his duties?

A. No, sir.

Q. Was there anything further, Mr. Graft, in connection with the incident of Joseph Gallagher that I have not covered by the questions that I have asked you that you know of?

A. No, I believe not.

Q. Do you know a man by the name of Frank J. Stephens?

A. Yes, sir.

Q. Was he in your employ?

A. Yes, sir.

Q. In your department, and in what capacity?

A. Second lineman.

Q. I notice in the record in this case that he gave

his name as Joseph Franklin Stephens. Do you know whether or not the person I have just asked you about, a Frank J. Stephens, is the same as Joseph Franklin Stephens?

A. Yes. I think they are one and the same.

Q. He calls attention in his testimony, Mr. Graft, to a talk that you made about two weeks before Easter, of this year. That is the only identification of the time that is made, or fixing of the time. Do you recall of having a meeting in—somewheres in your department, along about that time?

A. March. Yes. About the middle of March.

Q. Where was that meeting held, Mr. Graft?

A. In the line shop.

Q. And did you arrange for that meeting to be called?

A. Yes, sir.

Q. And did you make a talk at that meeting to your men?

A. I did.

Q. Now, he states that at the meeting, that you talked to them for an hour and thirty minutes. I wish you would state what you consider was the length of time of this meeting?

A. Twenty minutes.

Q. Now, he says that—about how many men would you say were there at the meeting?

A. 70 or 75.

Q. Will you just briefly state the substance of the talk that you made to the men at that time?

A. Well, I called this meeting at 3 o'clock in the afternoon, and I had my shop—my maintenance shop, the armature shop and line shop are under the same roof, and when I had these men gathered together, I told them the reason I had gathered them together was to state the Republic Steel Corporation's policy in regards to labor.

I told them that there had been many pamphlets, book-

lets circulated in the plant, talking among the men, and articles in the newspaper as to what one would have to do to hold his job with Republic Steel Corporation. I told them that I had called them together to tell them just exactly what the policy of the Republic Steel Corporation was, and that it was not necessary to join any organization regardless of what anybody said, to get their job or to hold their job.

If they did join, that was their business. That under the Representative Plan we had been able to make very good strides. That I thought that our policy was the best policy for the men, and that is the sum and substance of my talk on that day.

Q. Did you say this, or substantially this, in opening your meeting: "Men, I am here on behalf of the ones that are interested in themselves, and to try to convince the ones that are not interested in themselves, to be interested in themselves. This so-called or some damn-something-or-other union,"—Did you make any statement of that kind?

A. I did not.

Q. "I do not believe that any of you men are conscious, that will mess up with this stuff, this so-called stuff that they call the Big Chief John L. Lewis, he has never done anything for the laboring class of people. All he ever done, just run around and get the men's dollars." Did you say anything like that?

A. I did not.

Q. "That he won't do anything for you, that you won't have anything more than you have got. You will only just be out of a job or cause you a lot of trouble you can't get over it, you lose friends." Did you say anything like that to them?

A. No.

Q. Also he says that you said, "Of course, there are things going on that we have to keep to ourselves, that we

can't explain out openly and explain to you men." Did you make any such statement?

A. No, sir.

Q. "I don't want any of this influence stuff spread around here for about this S. W. O. C., I don't want it and ain't going to have it." Did you say anything like that?

A. I did not.

Q. And so far as you can remember, is the statement you have made the substance of what you talked about at that meeting?

A. Yes, sir. That is correct.

Q. Did you have any other conversation with Mr. Stephens, or did you have any conversation with Mr. Stephens at any time in your office?

A. Yes, sir.

Q. Will you state how that came about and what it was about?

A. Yes, sir. His foreman informed me that Mr. Stephens wasn't satisfied with his job. He wasn't satisfied with the way he was being treated. That he wasn't willing to work. So I instructed the foreman to send him to my office.

He came to my office and I invited him to sit down and I asked him what—I understood that he was not satisfied with his job and he wasn't satisfied with the way we run the place around there and he wasn't satisfied with the way we did the jobs, and he was just dissatisfied in general. And I says, "I don't know what your trouble is, but maybe we can straighten it out."

I said, "I understand that from the pamphlets that is around the plant that you are one of the organizers of the C. I. O. I just wonder if that is influencing your opinion of your job. And if it is, why we have got to get together on it." And he said that he thought he should be paid the first lineman's rate. Well, he had been there, I think, about a year and a half and had been promoted once.

Q. What was the job, by the way, that he took when he first came there?

A. He was a helper, to begin with.

Q. And then he was promoted to what?

A. Second lineman.

Q. Yes.

A. And I said, "Frank, maybe you can't do the job." I says, "Did you ever talk to your foreman about it?"

He says, "No," he didn't think he ever had. "Well," I said, "don't you think it is a pretty good idea before you go around talking to everybody else, you ought to talk to your foreman, give him a little consideration?"

He said, "Well, he would not give me anything, anyhow." "Well," I says, "I am not so sure about that," I said, "I believe that you owe that to your foreman, he knows more about you than I do."

And so we talked in generalities and he told me the history of his life, and he had been down in the coal mines down in Kentucky some place, I don't know where; that he thought we—what they should was to organize. I says, "Well, that is perfectly all right, but you have to confine that to the outside. You cannot let that interfere with your job, or your feeling towards your job." And he said, "Well,"— he didn't know, that there had been a lot of things done for him by organization."

"Well," I said, "you and I will have no argument on that score." I says, "You have got to do your job." I said, "You can't be dissatisfied and raising Cain with the men that is working with you and having the foremen complain to me about you when—just simply because you don't like the way we do things."

So we talked about generalities some more and I said—well, he still insisted he ought to be getting first rate, that seemed to be his main ambition.

"Well," I says, "I will tell you what you do. You go on back on the job, I will talk to your foreman, and if

you can qualify for first class man, I will see that you get first class rates," and I said, "that is up to your foreman."

And in parting, I told him, I says, "Now, I want you to go back on your job and go back on it feeling better at heart than you come off of it here to talk to me, because we are all here to do the job, we have got certain things to do when we come here, and we can't let our outside feelings interfere with what we do inside of the plant, where we make our bread and butter," and I says, "go on back on the job and we will see if we can't get along better," and that was the end of the conversation that we had. At least the sum and substance of what we talked, other than the fact that he told me a lot about where he worked, which is of no consequence; what he had done, what his father had done and so on.

Q. Did you, in connection with this, say anything to him in connection with the membership in the C. I. O.?

A. His membership?

Q. Or his membership in the—official position in it?

A. Yes, I told him that I understood that he was one of the organizers of the C.I.O.

Q. Yes.

A. I said that to him, yes, sir.

Q. Yes; well, did you say anything to him attending to dissuade him from those activities?

A. No, sir.

Q. Did you talk to his foreman in regard to his qualifications?

A. I did.

Q. And what report did you get from the foreman as to that?

A. His foreman told me that Frank was having a hard time making the grade on a second-rate job. That was the words he used.

Q. And was there anything further done about it then?

A. No, sir.

Q. You say you did tell him that you would investigate it and that if he was qualified for the first line, that you would give it to him?

A. That is right.

Q. What, if anything, was said in regard to solicitation of membership in any union on company time and property?

A. I told him he could not solicit—solicit memberships on company property or on company time. I told him that.

Q. Did you have any further conversation with Mr. Stephens subsequent to that? Subsequent to the strike?

A. Yes, I talked to him once on the telephone.

Q. Do you remember when that was?

A. I remember it was August. It was—very late in July or early in August.

Q. What was that conversation, Mr. Graft?

A. He said—He says, "This is Frank Stephens."

Q. He said what?

A. He said, "This is Frank Stephens." He gave me his name. I said, "Yes." He said, "How about my job, Johnny?" I says, "Frank, I have no job for you." I said, "Where have you been?" He said, "Oh, I have been down home." I says, "Well, Frank, we have no job. Construction work is fairly well finished, and we won't want you."

Q. Was he working on construction work, Mr. Graft?

A. Yes, sir.

Q. And what was the situation as to the amount of construction work having decreased during this period?

A. Well, the majority of the construction work had been cleaned up.

Q. In connection with your work of that character, does the men that you have in your department on the construction work fluctuate at different times?

A. Yes, sir.

Q. As to being larger or smaller?

A. Yes, sir.

Q. Did you say to him in this conversation this, or substantially this: "No, you have no job. None of you guys out there have no job." "You needn't hang around here, you might as well go somewhere else and get a job."

A. No, sir.

Q. Did you say that to him?

A. No, sir.

Q. Mr. Graft, do you know of a man that you had in your employ by the name of James Clarence Farner?

A. Yes, sir.

Q. Where was he employed?

A. Line department.

Q. In what capacity?

A. Welder.

Q. How many welders were you using there?

A. One welder and one shield maker.

Q. Now, what is the difference? Does a shield maker do welding also?

A. Yes, sir, there is very little difference in the job other than the fact that the shield makers possibly do the measuring of jobs and lay them out and do the welding, whereas a welder is one that is required to do shop work; that is, laid out work for him.

Q. Does that require more skill in connection with a shield maker?

A. Yes, sir.

Q. Was Mr. Farner also engaged in construction work?

A. Yes, sir.

Q. Do you remember having a conversation with Mr. Farner in your office?

A. I do.

Q. Just state how that came about. Give the substance

as near as you can of the conversation you had with him.

A. I told the foreman to send him in, that I wanted to talk to him, and he came in my office and I asked him to sit down. I said: "Red, you are not on the job." He said: "What do you mean?" I said: "I have seen you three different times this week off the job, not working." I said: "Since you have become a member, an organizer of the C. I. O., that you have been letting that activity interfere in your work. We can't permit it." He had worked for me previously at the Youngstown Sheet & Tube Company. He was a very—he is a very hard man to get a day's work out of. His foreman of the shop had, a week previously, complained about this man being in his shop talking to his workmen and keeping them away from work. I told him he would have to stay on the job and not solicit—that he could not solicit members on Company property and on Company time, and furthermore he would have to do a day's work. I further had a talk with him about the fact that he had kept us very busy trying to get him a two-weeks vacation and also because of the fact that he had a garnishee. I told him he could not have a two-weeks pay because there were a few special matters that needed tending. I asked him why he couldn't be a real fellow. I said: "You have worked for us before and we have had the same trouble." I said: "Now, you are doing less work than ever. I want you to go out and get to town." That was the sum and substance of our talk.

Q. Now, he speaks of various conferences that he had with you in your office. You may state if there were other conferences that you recall. What those were about?

A. There were other conferences about garnishees. He wanted us to see what I could do to stop a garnishee.

Q. That is, his wages would be attached or garnisheed by creditors, or notice served on the Company, is that correct?

A. That is right. There was a fellow in town named

Lyons, a real estate man in the City of Struthers. That is below Youngstown about five miles. He was pressing Red very hard for money. I happened to know Arthur Lyons very well. He wanted us to see what I could do for him, and then there was some credit given Red downtown where he had bought some clothing. He was getting it on a dollar down and a dollar when they got you.

Q. The other conferences that you had with him other than the one you have related when you talked to him about his work, were those conferences as to garnishees, attachments, or was there some other matters discussed at any other time at conferences that you had with him?

TRIAL EXAMINER LINDSAY: Now, just a minute. Is this man testifying, or has he testified about any attachment?

MR. SMITH: He said garnishee.

Q. That is not attachment. It may be and it may not be.

MR. SMITH: Well, may I ask him—

TRIAL EXAMINER LINDSAY: It may be two separate and distinct actions.

MR. SMITH: Well—

TRIAL EXAMINER LINDSAY: Just strike out the word "attachment."

MR. SMITH: Yes.

Q. Well, garnishee then, as to his creditors. Did you have any conferences other than the one you have related as to these garnishees?

A. No, sir.

Q. Did you at the conferences you have related or at any other conferences discussed with him as to what good friends that you and he had been over a period of years and ask him why he joined the C. I. O.?

A. I didn't.

Q. Did you say then or in substance this: "Why, he joined the C. I. O., and why he wanted to get himself mixed

up with a bunch of cheap Bolsheviks," and did he say: "I don't know if they are, John," and did you say to him: "If I give you definite proof, would you believe it?" And he said: "I would have no reason not to." Did you have such a conversation with him?

A. No, I didn't.

Q. Did you say to him then or substantially this: "That if you could prove to him—" referring to the C. I. O. —that they were covered by foreign powers if he would believe it? And that he said to you: "I would have to believe it if you prove it to me." Did he say: "I would have to." Did you have such a conversation with him?

A. I did not.

Q. Did you have a conversation in which you were stating to him what your duties were as an officer of the Company in connection with the C. I. O. and make this statement or substantially this, that he told you that he had been handed down from the shop, and that if it was at all possible that the superintendent and the heads of each department were to head this thing off and save all our necks?

A. No, I didn't.

Q. Do you remember holding an open meeting in the safety room at around 2:30 on some day shortly before the strike, a couple of weeks before Easter?

A. I held a meeting. The thing that was referred to by Stevens?

Q. Yes.

A. Yes.

Q. Now, at that meeting then, was this said: "Well, we are having a little trouble with the organizer." Referring to the C. I. O. organizer, "Running through the plant, and I don't think it is any good for us" and went ahead trying to sell the idea of the Representation Plan, and said that all that John Lewis was trying to do was to get a closed shop and the check-off system, and explained that it was no good for us. To make any statement like that?

A. I talked about the Representative Plan, yes.

Q. Did you make those other statements?

A. I said nothing about John Lewis.

Q. Do you remember after the strike was over of having a conversation with this man?

A. A telephone conversation, yes.

Q. Do you know about when it was?

A. Late in July. Some time after the 15th, I would say.

Q. Some time after the 15th?

A. That is right.

Q. What was that conversation?

A. He called me up and told me who he was and said: "How about my job?" I said: "Red, we are not going to put any other welder on. The construction work is all done. We are not going to put any more welders on." He said: "Well, you don't need me then?" I said: "Yes, I don't need you then." He said: "O. K." That is the last I heard of him.

Q. What was the fact as to whether or not at the time that you needed more than one welder?

A. I didn't need more than one welder. My construction work was practically finished at that time.

Q. Now, did you have one welder at that time in your employ?

A. Yes, sir.

Q. Is that the one you are referring to as the shield maker?

A. Yes, sir.

Q. You may state in regard to his qualifications as to whether or not he was qualified to do any work that Mr. Farner could do and also other work.

A. He was much better qualified.

Q. Did you have work in connection with your regular routine that would require any work to be done in that connection that Mr. Farner was not qualified to do?

A. There was sufficient work of the type that he could do, yes, to keep one man employed.

Q. Well, was there any work that this welder did do other than that that he was not qualified to do? This shield maker?

A. You mean any other work other than the construction? Is that the question?

Q. No. Other than the work that Mr. Farner was qualified to do.

A. Yes.

Q. What would be the effect of that work?

A. We asked that man out on cranes to make up shields for making the gears—the oil pipe gear cases to protect the men from the gears and keep the oil on the gears, off the floor, and he was qualified to do that kind of work—go out and make a layout.

Q. Make the design?

A. Make the design of the shield for the crane, that is correct.

Q. Do you remember a man by the name of William A. Haren?

A. Yes, sir.

Q. That was in your employ?

A. Yes, sir.

Q. Do you remember of him coming to see you after the strike was over and coming back for his job?

A. No, sir, he never saw me.

Q. Did you have any report on this man as to any activities in connection with picketing?

A. Yes, sir, I have an affidavit to the effect that he was on the picket line and armed with a club.

Q. Armed with a club?

A. Yes, sir.

Q. Mr. Haren testifies that he called you and that you answered and that you said that—"I told him who I was and what I wanted. 'Well,' he said, 'we don't have

anything for you, Bill.' I said, 'Yes, Mr. Graft, I reported for work on the 29th,' and I said, 'Ritchie told me he would call me when he needed me.' He said, 'Well, we will notify you when we need you. We are all filled up.'"

Do you remember a conversation of that kind?

A. I have never talked to this man on the telephone or otherwise.

Q. Do you know anything about whether he registered, after the 25th of June?

A. No. He was in the plant when the plant first opened, he came in, but he was instructed why he was not put back to work at that time.

Q. Well, do you know what those instructions were?

A. Yes, sir.

Q. Will you state them?

A. Yes, sir. He was told that he could not be returned to work.

MR. LAUTER: I object to this statement unless the witness is testifying from something of his own knowledge.

MR. SMITH: He is.

MR. LAUTER: Is this conversation—

MR. SMITH: He is.

MR. LAUTER: Just a second. If this is conversation that the witness himself heard, I have no objection to the testimony.

TRIAL EXAMINER LINDSAY: There is just one thing in there.

(Discussion held off the record.)

TRIAL EXAMINER LINDSAY: Now, go on to the objection that is now before us.

(The answer and objection read by the Reporter.)

MR. SMITH: I am perfectly willing that the answer be stricken out, that is, the portion of the answer as to what was in the conversation, be stricken out.

TRIAL EXAMINER LINDSAY: All right.

Q. (By Mr. Smith) Because you were not personally present at that time?

A. No, sir.

Q. How was Mr. Haren employed? In what capacity?

TRIAL EXAMINER LINDSAY: The objection there should be shown as sustained with consent of counsel.

A. What was the question again?

Q. What position did he occupy?

A. Crane man in the open hearth department.

Q. Were there any extra crane men carried in that department?

A. Yes, sir.

Q. Prior to the strike?

A. Yes, sir. He was one of them.

Q. Will you state what the reason for the extra crane men was at that time, if you know?

A. Well, in a mill of that size we always carried extra men in each department, extra crane men in each department to cover an emergency such as an accident or sickness. So we always have a man that we can call on, when a man wants a few days off or sick or anything.

Q. So that his employment was not regular? It was extra?

MR. LAUTER: I object to that, stating a conclusion.

Q. Is that correct?

MR. SMITH: All right, I will withdraw it.

TRIAL EXAMINER LINDSAY: Yes, let's be careful on those statements.

MR. SMITH: Your Honor, I am trying to be, but it was inadvertently asked.

Q. (By Mr. Smith) Do you remember a man by the name of Harry Rigby that was employed in your department?

A. Yes, sir.

Q. How was he employed, Mr. Graft?

A. Motor inspector.

Q. How many were employed in that department?

A. That is, motor inspectors in the department in which he worked?

Q. Yes.

A. Eleven.

Q. Now, do you remember on or after June 25th of having any talk with Mr. Rigby? Any conversation with him?

A. I had a conversation with him. I can't state the date, it was in July sometime.

Q. Well, then, I will ask you this question: Did you instruct any one of your assistants to call Mr. Rigby at any time?

A. I instructed by foreman in the blooming mills on the morning of the 25th to get his crews lined up.

Q. The 25th of June?

A. Yes, sir.

Q. Yes, now go ahead.

A. I instructed my foremen in the blooming mill the same as I instructed all my foremen to get their crews lined up, and Mr. Kling, who was my foreman in the blooming mill, called up Mr. Rigby.

Q. That is, he reported to you that he had?

A. Yes, sir, he reported back to me, and Mr. Kling reported back to me that Mr. Rigby as well as the nine other inspectors—eight other inspectors had refused to come to work until the following Monday.

Q. Yes.

A. And he brought that message back to me and asked me what I should do about it. I said, "Well, have you called these boys up and talked to them?" He told me he had. I said, "How many men did you talk to?" "Well," he said, he talked to Harry and he talked to Martin Petrensik.

Q. Does "Harry" refer to Rigby?

A. Harry Rigby, that is right.

Q. Martin—what was the next name, now, you used?

A. Petrensik, I think it is. I says, "Well, you call them and tell them to come out on their job, because we are going to roll steel Sunday, on the 11 to 7:00 turn, and if they don't want to come out, we are going to put somebody else on their job," and Mr. Kling called them and talked to Harry and told him that.

Q. By "Harry" you mean Harry Rigby?

A. Harry Rigby, yes, and he informed him that if he didn't come out, not only he but all of the rest of them that were at this meeting—they were having a meeting of their own, we understood—he told us they were—he told Mr. Kling that he was—

Q. Were you present, talking at Mr. Kling's end of the telephone?

A. At the second telephone conversation I was, yes.

Q. Yes.

A. He informed him that we would put somebody else on their jobs, they would have to because they were going to start the mill and Rigby informed Kling that they—that it still stood, that they were not coming to work until Monday. So I instructed Kling to put other men on the job?

A. Yes, sir.

Q. On these jobs?

A. Yes, sir.

Q. When, following that, if at any time, did you have any conference with Mr. Rigby?

A. He came in sometime in July, early part in July, and asked to have his job, if he could get his job back.

Q. And did he come alone?

A. He was alone when I talked to him, yes, sir.

Q. Do you recall what time in July it was that this conference took place?

A. It was early in July, I can't recall the exact date.

Q. Now, did any of the other men, the other eight of them, come back to see you also?

A. Yes, sir.

Q. Did you have a conference with Mr. Rigby, when he came back?

A. Yes, sir.

Q. Just state what that conference was?

A. Well, Mr. Rigby came back and asked to be returned to his position.

Q. Just hold your voice up just a little bit.

A. He asked to be returned to his position.

Q. Yes.

A. As motor inspector, and I said to Harry, "You know, I have had some complaints about your work. They not only come from your present foreman, but your previous foreman," and I said, "You are complaining, kicking and complaining about everything."

I said, "If you go back to work, see if you can't avoid that," I said, "your previous foreman has had trouble with you," and I says, "The new man on the job, foreman for about six months, and he has had trouble with you, so it must be you."

He says, "You are a liar, I don't believe a word of it." He said, "Charlie Ritchie never said that about me."

I said, "He most certainly did, I would have no reason to tell you such a thing if he hadn't."

Q. Then what did you do?

A. I told him that I would send for him when I needed him.

Q. What, if anything, was done with the other eight men that had been employed similar to him?

A. The other eight men came in to see me under similar circumstances by appointment, called me, and asked for their—to be returned to their position, admitting or realizing that they had made a mistake, that they hadn't

returned to the jobs when they were requested to, on two occasions, and I put them back to work.

MR. LAUTER: I move the statement that "they admitting and realizing they made a mistake" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. SMITH: He has stated what they said.

MR. LAUTER: I didn't so understand. If he is testifying what each one of those eight said, that they said that they realized what he says they said, then I will consent to it remaining in the record, but I didn't understand it.

Q. (By Mr. Smith) I will ask you whether or not—

MR. LAUTER: Let me have a ruling on my objection, please, Mr. Examiner.

TRIAL EXAMINER LINDSAY: Well, I will sustain that objection. I misunderstood it, if that is what he meant. If he is repeating their conversation, their admissions, but I understand that that was his conclusion.

THE WITNESS: That is not so. That is their statement.

Q. (By Mr. Smith) I will just ask you the questions. What, if anything, did the other eight men that were taken back, say in connection with their employment and in connection with not returning at the time they were called?

A. They said that they were sorry that they hadn't returned, and that it was a mistake and they had nobody to blame but themselves. Each and every one of them admitted that.

Q. Have you reinstated them?

A. Yes, sir.

Q. Yes.

MR. SMITH: You may cross examine.

TRIAL EXAMINER LINDSAY: I think we will take a short recess right now.

(Recess had.)

Cross Examination

Q. (By Mr. Lauter) You are the superintendent in the electrical department, is that correct?

A. Yes, sir.

Q. How many men work under you?

A. Between six and seven hundred.

Q. And that is in Youngstown, Ohio?

A. Yes, sir.

Q. Now, you testified about a Harry Rigby in connection with your testimony. In connection with that testimony you mentioned that you had instructed foremen to get the crews lined up?

A. Yes, sir.

Q. What was the date of that?

A. June 25th.

Q. That was the date the mill opened up?

A. Yes, sir.

Q. Was that on the same day that you instructed the men about getting the crews lined up? Was it the day previous?

A. That I instructed the foremen?

Q. That is right.

A. The same day.

Q. About what time of the day?

A. About 11 o'clock in the morning.

Q. How many foremen did you so instruct?

A. Nine.

Q. What did you tell them—withdraw the question. Did you speak to them individually or all together?

A. I called some of them personally on the telephone and my clerk called some of them on the telephone.

Q. What is your clerk's name?

A. Sir?

Q. What is your clerk's name?

A. Gregory.

Q. Now, about how many did you call?

A. I talked to four that I remember of; five that I remember of.

Q. What did you tell them?

A. Told them to get the crews lined up and start the mill.

Q. How do you mean that? What do you mean by that?

A. In other words, when we had opened the mill the men all came in together. We couldn't, of course, use them at one turn. They would have to be assigned to a turn. On their regular jobs they would have to be assigned to a regular turn.

Q. Did these foremen call any of the men up in connection with the opening of the plant?

A. Yes, sir.

Q. Were they so instructed?

A. No, sir.

Q. You gave them no instructions with respect to getting the men back in the mill?

A. I didn't tell them that.

Q. Did you give them any instructions with respect to getting in touch with them in any way?

A. No, sir.

Q. You say on June 25th when the mill opened up the men all came in?

A. I wouldn't say they all came in.

Q. How many would you say came in to your department?

A. I can't answer that 100% accurate but I would say that 75% of the men.

Q. Do you know whether or not any of your foremen got in touch with any men that came back?

A. By telephone.

Q. In what way?

A. I do know these men that came back—one man came to me and told me he had got in touch with these men because they didn't report in when the men came in the plant.

Q. These foremen had called up every one?

A. The only foreman that I know of.

Q. You don't know whether the other foreman did that also?

A. No, sir.

Q. You had no conversation with them during which you indicated to them or they indicated to you whether they they did or did not?

A. I didn't hear the question.

MR. LAUTER: Will you read that question?

(The last question was read.)

A. No.

Q. Now, you had a conversation with Kling about the men that he did call up, is that correct?

A. He told me about the conversation he had, yes.

Q. You had a conversation during which he told you about the conversation he had had with Harry Rigby, is that correct?

A. That is right.

Q. Now, when did you have this conversation with Mr. Kling?

A. At 1 o'clock on the 25th of June.

Q. That is 1 o'clock in the afternoon?

A. Yes, sir.

Q. P. M.?

A. P. M.

Q. The only one?

A. Yes, sir.

Q. Kling is the foreman in the blooming mill?

A. Yes, sir.

Q. And Kling told you that he had spoken to Harry Rigby, is that correct?

A. That is right.

Q. And Rigby was the inspector?

A. Yes, sir.

Q. And Kling told you about a conversation with Rigby and eight other inspectors?

A. That is correct.

Q. And that these nine men had refused to go back to work until Monday?

A. That is right.

Q. And you instructed Kling to put new men on the jobs for the men who said they were not coming back until Monday?

A. That is right.

Q. Do you know whether or not new men were put on the jobs?

A. What do you mean by new men?

Q. Well, in the plant as your instructions were. To put new men on?

A. They were men employed at the Republic Steel, at the Bessemer plant, and they had worked there before.

Q. Is that what you said when you said to put new men on the jobs?

A. That is right.

Q. Is that right?

A. Yes, sir.

Q. That is what you made clear to Mr. Kling?

A. Yes, sir.

Q. Were new men put on these nine jobs?

A. All new men. I don't mean men new to that mill, I mean men new to that job.

Q. That is right?

A. That is right.

Q. On all nine jobs?

A. On all nine jobs.

Q. You spoke of the fact that new men were put on these jobs. Isn't it true that eight of these nine men had got back their old jobs?

A. That is right.

Q. In other words, the new men who were taken on these jobs and were put on these inspecting jobs were later placed on the jobs that the new men had?

A. Yes, sir.

Q. These new men were taken from some other part of the mill, removed from their jobs, and taken to this mill to take the place of the inspectors?

A. Yes, sir.

Q. Did you give similar instructions to any other foreman in connection with taking on or putting on new men?

A. No, sir.

Q. That is the only incident where new men were put on?

A. At that time, yes, sir.

Q. Subsequent to that time?

A. No, there has been new men put on.

Q. Has there been new men put on? That is, new men in the mill?

A. Yes, sir.

Q. And they have taken the place of the men on strike?

A. Yes, sir.

Q. Now, you testified about a conversation that you had. If I am wrong, correct me. You had a conversation with each one of these eight inspectors.

A. Yes, sir.

Q. And you testified that each one of them spoke to you in substance there, that had not returned to work? That they were sorry that they had not returned to work. You suggested to them, or Mr. Kling suggested to them—

A. Yes, sir.

Q. And they were sorry they did not come in?

A. Yes, sir.

Q. And when they said they were sorry, you took them back?

A. That is right.

Q. Now, in the conversation you had with Mr. Kling during which Mr. Kling told you about his conversation with Mr. Rigby, did Mr. Kling tell you about a conversation with any other of those nine men?

A. Yes, sir, with Martin Petronovich.

Q. Who is he?

A. Martin Petronovich.

Q. What was the substance of the conversation that Kling had with Petronovich?

A. It was substantially the same as he had with Rigby. The reason he talked with Rigby was that Rigby speaks better language than the other boys.

Q. Now, the reason for that was that Rigby was the spokesman for the men, in their communications, through Kling?

A. I don't know whether that is true or not. I had talked to Rigby after—his conversation to me was that he had talked to Martin and Martin refused to come to work, and spoke for the rest of the men, that they refused to come to work until Monday.

Q. Yes.

A. Mr. Kling sent Martin to speak to Rigby and Rigby said that it still stands. "We are not coming to work until Monday." I thought I could explain to Rigby why he should come to work.

Q. And also Rigby should explain to the others?

A. That is right.

Q. You have spoken to all of these inspectors?

A. Yes, sir.

Q. And you knew they are foreigners?

A. Yes, sir.

Q. And they don't speak English?

A. Not all of them; only one I think.

Q. And they don't speak English very well?

A. Yes, sir.

Q. And Rigby does?

A. Yes, sir.

Q. Now, the conversation during which these men were advised that new men would be hired if they didn't come back was conversation that Kling had with Rigby alone, isn't that correct?

A. I could not say that.

Q. Well now, that is the report you got, isn't it?

A. What?

Q. That is the report you got?

A. That is the report I got.

Q. You have been testifying about reports?

A. That is right.

Q. That you got all during this hearing?

A. That is right.

Q. Now, you testified about a William A. Haren?

A. Yes.

Q. Do you know who he is?

A. I wouldn't know the man if he walked into this room.

Q. And he was an extra crane man, is that right?

A. Yes, sir.

Q. Of course the word "extra" as you are using it does not mean it was a surplusage of crane men. It was a regular crane man's work?

A. Yes, sir.

Q. You always have extra crane men?

A. That is right.

Q. And the reason you refused to reinstate Mr. Haren is that he had carried in his hand a club on the picket line?

A. That is right.

Q. You were so advised by one of the employees in the plant?

A. That is right.

Q. That is the only information you had?

A. Yes, sir.

Q. You didn't see him with a club in his hand?

A. No, sir.

Q. How many employees told you they saw him with a club in his hand?

A. The man with the affidavit.

Q. I say, how many employees?

A. One.

Q. One?

A. That is right.

Q. How often did he say that he saw Mr. Haren with a club in his hand?

A. I don't know. I can't quote the affidavit.

Q. What does the affidavit say?

A. It says—I can't repeat it verbatim but as I remember it, he was seen on the Center Street Bridge with a club.

Q. At least once?

A. At least once, yes.

Q. But you don't know how long he carried it, or how long he stayed there, or how much the club weighed, or you didn't see it yourself?

A. No.

Q. And that employee was working in the mill while the strike was on?

A. Yes, sir.

Q. Did you have a clerk in the office who sometimes answers the phone under your name?

A. Under my name?

Q. Yes.

A. No.

Q. What is his name?

A. John Gregory.
Q. What department?
A. The electrical department.
Q. Is he the one who answers the phone?
A. That is right.
Q. And he never carries on a conversation in your name?
A. No, sir.
Q. Just one more question. You testified about a threatened flood, is that correct?
A. Yes, sir.
Q. A flood?
A. Yes, sir.
Q. In connection with the testimony of one Gallagher?
A. Yes, sir.
Q. Now, that is Joseph Gallagher?
A. Yes, sir.
Q. Joseph Francis Gallagher?
A. I can't say what his middle name is. Joe Gallagher to me.
Q. Joe Gallagher?
A. Yes, sir. I don't know what his middle name is.
Q. It might be Joseph King Canute as far as you know?
A. No.
Q. It is probably Joseph Frances Gallagher, the man that testified in this hearing?
A. That is right.
MR. LAUTER: That is all.
MR. SMITH: That is all.
(Witness excused.)

HAROLD H. WARNOCK

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) Will you state your full name, please?

A. Harold H. Warnock.

Q. Where do you live, Mr. Warnock?

A. 250 Norwood Avenue, Youngstown, Ohio.

Q. Where are you employed, Mr. Warnock?

A. The Republic Steel Corporation, Youngstown District.

Q. How long have you been employed by the Republic Steel Corporation?

A. Four years.

Q. What capacity are you in now?

A. General foreman of the open hearth rolling mills.

Q. How long have you held that position?

A. Three years.

Q. Is that for three years the last past, continuously?

A. Yes, sir.

Q. (By Mr. Jones) Is that for the three years last past continuously?

A. Yes, sir.

Q. In your department how many men do you have generally, regularly employed?

A. In all the rolling mills we employ between five and six hundred men.

Q. Would you say that that number of men are under your direct supervision?

A. I am under the general superintendent of rolling, Mr. Caldwell.

Q. And what would you say about the number of men that are regularly under your direct supervision?

A. Well, I have practically the supervision of the entire crew.

Q. The number you mentioned, five or six hundred?

A. Yes, sir.

Q. What is the nature of the work that is done in the department that you supervise?

A. Heating, rolling, finishing of the products of the blooming mill, iron billet mill, the plate mill and merchant mills.

Q. Did you have in your employ one known as Valare Chismus or Walter Chismus?

A. We knew him as Walter Chismus.

Q. Walter Chismus?

A. Yes, sir.

Q. What was the nature of the work that he did?

A. He was a shear laborer; he worked on various different jobs on the line of finishing steel; he worked on the straightening machine, the shear crews, loading crews.

Q. Do you recollect of having any conversation with Mr. Chismus subsequent to the time the men returned to work, after the recent strike?

A. No, sir. I beg your pardon. You mean after the men returned to work?

Q. After June 25th?

A. Yes.

Q. The men returned to work?

A. Yes, I talked to him.

Q. Do you recall any conversation that you had with Mr. Chismus before that time?

A. No, sir.

Q. You do recall a conversation after that time?

A. Yes, sir.

Q. Do you recollect one or more than one conversation?

A. Two conversations was with Mr. Chismus.

Q. Do you have any way, Mr. Warnock, of fixing the time as to about when the first conversation took place?

A. As I recall it, he came out to work on the Sunday following the reopening of the mill.

Q. That would be the Sunday following the 25th of June?

A. Yes, that would be the 27th of June, yes.

Q. Was it on that day that you had a conversation with him?

A. Yes, sir.

Q. And which was that? The first or the second conversation?

A. That is the first conversation I had had with him in the mill.

Q. Where did that conversation take place?

A. In the plate mill office.

Q. I wish you would state at least the substance of that conversation, what Mr. Chismus said to you and what you said to him?

A. Well, he came in and he said, "I saw the 11 to 7:00 turn foreman about 7 o'clock in the morning," he said, "I want to go to work, and went to the 11 to 7:00 turn foreman, Mr. Taafe, and he said, "You will have to see Mr. Warnock when he comes out to work'." I reported for work at 7 o'clock in the morning. Meantime he had also talked to the shear foreman. I arrived at 8 o'clock and Mr. Chismus was waiting to see me.

Q. Now, you understand that what I want is the conversation that you had with Mr. Chismus?

A. Yes, sir.

Q. Tell what he said and what you said?

A. I asked him if he had been arrested in a riot on Market Street. He said he had. He had been on the picket line and that the police had picked him up and that he had been placed in jail. I told him that he would have to go home and I would call him when he was needed. He stated that he didn't have a telephone, so I told him that he could either bring a telephone number down to me so that I could call him, or he could call again in the middle of the week and see me, and I would talk to him again.

Q. Now, has Mr. Chismus made any statement to you previous, to the time that you said these things to me, that you have just related?

A. No, sir.

Q. What did Mr. Chismus then say?

A. He said, "All right," and he left.

Q. Now, this was on a Sunday, was it?

A. Yes, sir, as I recall it, it was on a Sunday.

Q. Sunday after June 25th?

A. Yes, sir.

Q. Where did this conversation take place?

A. At the plate mill office.

Q. That is at your office?

A. No, my office is over under the bridge.

Q. I see; whose office was it that—

A. It is the turn foreman's office.

Q. What is his name?

A. Well, there is three of them, one on each turn.

Q. I see.

A. This was the general turn foreman's office for the plate and bar mills.

Q. It is an office used by three different foremen?

A. Yes, sir.

Q. I will ask you to state whether or not, previous to the time of this conversation, you had received information concerning the arrest of Mr. Chismus as you have stated?

A. Yes, I had.

Q. Do you recall where you got that information?

A. Well, it was in the newspaper under the name of Valare Chismus. I was not sure that it was the same man as Walter Chismus who worked for me, so that when he did return to work I checked with him, and he admitted that he had been in the riot and had been arrested.

Q. That he was that man?

A. Yes, sir. He was the same.

TRIAL EXAMINER LINDSAY: Mr. Day, Mr. Smith, Mr. Lauter, Mr. Jones. Off the record.

(Discussion held.)

TRIAL EXAMINER LINDSAY: We will adjourn to 9 o'clock tomorrow morning.

(Whereupon, at 4:45 p. m. September 23, 1937, an adjournment was taken to 9 o'clock a. m. September 24, 1937.)

Court Room 3, Common Pleas Court, Cuyahoga County, Cleveland, Ohio, Friday, September 24, 1937.

The above-entitled matter came on for hearing, pursuant to adjournment, at 9:00 o'clock a. m.

Before:

John T. Lindsay, Trial Examiner.

Appearances:

Mark Lauter, Esq., and Joseph A. Hoskins, Esq., appearing for the National Labor Relations Board.

Luther Day, Esq., and Thomas F. Veach, Esq., of the firm of Messrs. Day, Veach & Young, Union Trust Building, Cleveland, Ohio; Judge Chas. F. Smith, and David E. Jones, Esq., of the firm of Messrs. Harrington, Huxley & Smith, 1200 Mahoning Bank Building, Youngstown, Ohio; and J.G. Ketterer, Esq., of the firm of Messrs. Lynch, Day, Pontius & Lynch, First National Bank Building, Canton, Ohio, appearing for Respondent.

PROCEEDINGS

TRIAL EXAMINER LINDSAY: The hearing is called to order.

Mr. Day and Mr. Lauter, will you come up here, please?

(Discussion off the record.)

TRIAL EXAMINER LINDSAY: Now the situation as I find this hearing in is that last Saturday it was agreed that the general offer to prove was to be put in Monday. It is now Friday and it is not in yet. It must be in here tomorrow. If you are going to have an offer to prove to make here at Cleveland it has got to be in here not later than Tuesday morning.

MR. DAY: All right.

TRIAL EXAMINER LINDSAY: My understanding was that at Canton, Mr. Day, you told me that there might be a few loose ends in this hearing so far as Canton was concerned, and that you would like to put it on at Cleveland; that you may not even call any witnesses here. Now, I find that you have about eight from Canton and seven or eight from Youngstown. When I granted that privilege of putting in some evidence on the discriminatory charges, I did not think you were going to make your complete defense on those charges at Cleveland. At your request I moved this hearing from Cleveland at the end of the Board's case back to Canton for that specific reason. You stated at that time that you wanted your defense to be started at Canton, and we held it at Canton. It is possible there was some misunderstanding. Now, I find that under the circumstances it is necessary for us to hold night sessions. This case started away back the 19th of July, I believe. Some delays were made due to Board adjournments, and adjournments to give the attorneys for the Board to work up their case at Youngstown. There has been a lot of testimony brought in here, that at Youngstown particularly after I ruled—made my ruling, it was necessary for me to constantly remind you of the ruling. Now, we are going to proceed with this hearing, and we are going through with it. It must be finished as soon as possi-

ble; so please do not ask any favors in the way of adjournments or short days from now on.

MR. DAY: I want to state; and this is for the record?

TRIAL EXAMINER LINDSAY: Yes.

MR. DAY: I want to state that I understood that the adjournment in Canton, and I was so advised by the Examiner—I don't wish to be technical in the matter—I stated at that time that owing to the absence of Mr. Veach and the illness of Judge Pontius I was not able to say how much evidence we wanted to offer in Cleveland outside of what was offered in Canton. I also thought, and it was my understanding at the termination at the hearing in Youngstown that we would have a chance to offer evidence in Cleveland. It was my impression that it didn't make any difference where it was offered so long as the evidence was put on.

TRIAL EXAMINER LINDSAY: That wasn't my impression. My impression was that you stated there would be some loose ends that you would like to put on in Cleveland. Those are the very words I understood you to say at Canton. I didn't grant the privilege of putting on your whole defense on discriminatory charges; but that is perhaps a misunderstanding.

MR. DAY: That is a misunderstanding, yes.

TRIAL EXAMINER LINDSAY: Now, proceed.

MR. DAY: I understand that we will have night sessions, and a night session tonight if we cannot finish the Canton and Youngstown witnesses?

TRIAL EXAMINER LINDSAY: We will have a night session anyway from 7 until 9. No doubt we will hold night sessions Monday and Tuesday.

MR. DAY: All right. We will do the best we can under the circumstances.

TRIAL EXAMINER LINDSAY: You may proceed with the witness.

HAROLD H. WARNOCK

a witness called by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Jones) I believe that yesterday you recalled or related the first conversation you had with Mr. Chismus, is that correct?

A. Yes, sir.

Q. I believe you also stated that you had two conversations altogether?

A. That is right.

Q. When was it that the second conversation took place?

A. Three days after the first conversation, the Wednesday following the Friday that the mill reopened. And he came back to Mr. Caldwell and my office, to see me.

Q. Just a minute before you get into that. The date that you referred to as the date that the mill reopened is what?

A. Friday, June 25th.

Q. All right. And where did your second conversation take place?

A. In Mr. Caldwell and myself's office, Center Street Bridge.

Q. What was said by Mr. Chismus and by you at the time of the second conversation?

A. Mr. Chismus asked me if he could have his job back, and I told him that inasmuch as he had been arrested for participating in a riot on the Market Street Bridge that there was nothing further that I could do to take him back.

I also told him that if he didn't feel satisfied with my decision that he could come back at a later date and see Mr. Caldwell. He wanted to know what date he could see Mr. Caldwell and I told him Mr. Caldwell would be back from the Bessemer plant on Friday. That would be the Friday following the day I talked to him, which was Wednesday.

Q. What day were you talking with him?

A. I talked to him on Wednesday, June 29th, I believe the date was.

Q. You told him that he could talk to Mr. Caldwell the following Friday?

A. Friday.

Q. Was Mr. Caldwell there on Wednesday?

A. No, sir.

Q. Who is Mr. Caldwell?

A. Mr. Caldwell is my superior officer.

Q. What position does he occupy?

A. Superintendent of rolling mills, Youngstown district.

Q. After you had made this statement to Mr. Chismus, what, if anything, did he say?

A. He said nothing. He said he would come back later and see Mr. Caldwell.

Q. Did you see Mr. Chismus after that time?

A. No, I did not.

Q. Did you have a conversation with him after that time?

A. No, sir.

Q. Do you know, as a matter of fact, whether or not he did come back to see Mr. Caldwell?

A. He did. He came back on Friday and Mr. Caldwell was not in the office. He was kept at the gate by the policeman until Mr. Caldwell would arrive. He wanted to see either myself or Mr. Caldwell, and I was busy in the

mill for approximately two hours in the morning, and he didn't wait to see either me or Mr. Caldwell.

When I came over to my office approximately at 11 o'clock in the morning, the policeman at the gate told me that he had been there to see me.

Q. Was he there when you came back?

A. No, sir, he was not.

Q. Did you ever see him or talk with him, after that?

A. No, I did not.

Q. Is there any conversation that you had with Mr. Chismus outside of what you have related?

A. No, sir.

Q. Mr. Warnock, did you have in your employ a man by the name of John Opalcih?

A. Yes, sir.

Q. What kind of work did he do?

A. He was transfer pulpit operator.

Q. What is the nature of that work?

A. He runs electrical controls that run table rolls that transfer plates from one table into a straightening machine through a pinch roll, and deposits the plates in a pack on the scales.

Q. Do you recollect of having some conversation with Mr. Opalcih?

A. Yes, sir.

Q. Up at the transfer pulpit?

A. Yes, sir.

Q. Can you tell about when that conversation took place?

A. That was the day before the strike, on the 3 to 11 turn.

Q. That would make it what date?

A. Would be May 24th.

Q. What day did the strike come on?

A. The 25th.

Q. Or was it the 26th?

A. 26th,—May 25th, I guess.

Q. What day was it, then that you had the conversation?

A. On the 25th.

Q. I will ask you to state, Mr. Warnock, in words or substance, if you said this to Mr. Opalcih and whether he made the following replies to you: That you said: "Hello, John," and he said, "Hello." He said to you, "I ain't got no time because one man work, he is too busy."

And you said to him, "Somebody told me you belonged to the C.I.O." And he said, "Yes." And you said, "All right, anything is trouble coming, I kick you down on the bridge, Center Street Bridge." Did a conversation of that character and nature take place at that time?

A. No, sir. That was not the conversation.

Q. How is that?

A. That was not the conversation.

Q. I wish you would please state what the conversation was that took place at that time?

A. On my daily afternoon trip through the mills with my shear foreman, Mr. Meeker. I came past the transfer pulpit and I have had several reports of misdemeanors from Mr. Opalcih, from my shear foreman, Mr. Callahan, my mechanical foreman, Mr. Oliphant.

TRIAL EXAMINER LINDSAY: Just a minute, strike out the word "misdemeanors".

(Record read by Reporter.)

TRIAL EXAMINER LINDSAY: I said the word "misdemeanor" is out. If he means "complaints" all right.

A. I had several complaints about John working, and the two gentlemen that I have mentioned, that he had been abusing equipment, and he had been endangering the lives of the piling crew that worked underneath him. He is up in the air in this pulpit.

TRIAL EXAMINER LINDSAY: Strike out "endangering." Now, you can only tell what actually

happened. Those are conclusions. I want the facts.

MR. JONES: May I ask this question?

TRIAL EXAMINER LINDSAY: Strike out that whole answer.

Q. I wish you would please state, Mr. Warnock, what these complaints were that you had received prior to the time of this conversation with Mr. Opalcih.

A. Mr. Callahan complained to me that on the previous turn, which would be on Monday, on the 3 to 11 turn. Mr. Opalcih was not allowing the piling crew time to straighten up the plates after each individual plate that was run through the cold rolling mill; as the plates were deposited, two or three men reached over and picked at it with the bar. There are two of them picking it up. In the nature of their work that necessarily has to stop in front of the picking men. It is a standard safety rule in our shop that as the men step in front Mr. Opalcih is to stop his machinery so that they will not get hurt. The complaint that I received from my foreman was that he was not giving the piling crew time to pick these plates up. He would hit the rollers with his machinery and the men would jump back; they were afraid.

Q. Were those plates that were being piled there hot or cold?

A. Hot plates. The temperature is approximately 1000 to 400 degrees as it is put in.

Q. What were the sizes of those plates?

A. We rolled plates of various sizes. I can't truthfully state the size of the plates in question on this turn. It would be approximately 50 foot long and it would be anywhere from 22 wide to from 40 inches wide. I don't recall actually the sizes of the plates that were rolled?

Q. But those were the limits of the sizes?

A. Those were the limits of the sizes we rolled there on those 50 foot bars.

Q. Are they piled one on the other?

A. They are piled one on the other, yes, sir.

Q. What is done first to put them in a pile?

A. The transfer pulpit operator as they come off the mill table conveys them on a chain and the conveyor goes across their table. They are there stopped and chains are lowered and they are attached and run off in a forward motion, and the cold roll there goes forward to a pinch bar roll. It is sent to the piling crew on a scale basis and they are piled.

Q. What did Mr. Opalcih have to do in this job in the transfer pulpit to pile the plates?

A. He would run it forward on his conveyor.

Q. Where is that with respect to these plates that are being piled?

A. He is approximately 20 feet in a vertical direction and about 20 feet in a horizontal direction. He is up in the air; the pulpit is up in the air.

Q. Then as I understand it, he operates the machinery to cause these plates to be run one on the other?

A. Yes, sir.

Q. Then other men that you talked about, they were leveling off?

A. Yes, sir.

Q. Where were they?

A. They work on the ground immediately below.

Q. That was on the same level as the plates that were being piled?

A. Yes.

Q. What did they have to do with the piling of plates?

A. All they did is straighten the plates up.

Q. Do they do that by machinery?

A. No, sir, by hand; with the aid of a bar.

Q. According to the complaint that you had, these men were jumping back as you said when the plates were shot through?

A. Yes, sir, the piling crew, a force of two or three

men. The force varied; some times two and sometimes three.

Q. Were those the same men that you said were on the same level with the plates?

A. Yes, sir.

Q. The piling plates?

A. Yes, sir.

Q. They were straightening them?

A. Yes, sir.

Q. Now, those were the complaints that you had received concerning Mr. Opalcih?

A. Those were the complaints I had received from my operating foreman. I also received a complaint from the mechanical foreman, Mr. Oliphant.

Q. Who was this Mr. Oliphant?

A. He was the mechanical foreman.

Q. What were the complaints from him?

A. As different gauges are rolled to the mill and pinched on the cold roller they are lowered according to the different thicknesses. It is part of the pulpit operator's job to raise or lower the screws on this equipment so as to have the gauge exact. He is told of any change of orders and he is told when any change of gauge occurs in the mill. It had been reported by Mr. Oliphant to me that he was running in stock of a thicker gauge than the machine would catch.

Q. Who was running it in?

A. Mr. Opalcih and he was abusing equipment, and on one occasion just prior to this thing that I talked to him about he was running stock in that was too heavy for the equipment to handle.

Q. You had received that complaint from whom?

A. Mr. Oliphant.

Q. Were both of these complaints received by you prior to this conversation?

A. Yes, sir.

Q. So then you went up to where Mr. Opalcih was working?

A. Yes, sir.

Q. About what time of the day was it?

A. Approximately 4 o'clock in the afternoon.

Q. Did you talk with him at this time or ask him to come to some other place?

A. No, sir, I went right up to his pulpit where he operates and I talked to him there.

Q. I wish you would please state what the conversation was that took place between you and Mr. Opalcih at that time.

A. I first asked him, I said, "John, why did you join the C.I.O.? Is that true?" He said: "No." I said: "Well, John, I don't care what Union you belong to but I want you to understand that I am receiving a continual number of complaints about your work in the mill and the way you handle your job. I want you to understand that as long as you are working for me and Republic that you are going to do your job in a workmanlike manner or I will be forced to discharge you." That is all I said to John, and John said nothing back to me, and I went.

Q. He made no comment at all?

A. He made no comment whatsoever.

Q. When did you next have the conversation with Mr. Opalcih, if any?

A. On the Sunday following the Friday opening of the mill which would be June 27th.

Q. Where did you have that conversation with him?

A. At the plate mill office.

Q. I wish you would please state what occurred at the time of that conversation.

A. John came in the office and said he wanted to see me about going back to work. I said: "John, I have evidence that you were on the picket line carrying a club on at least two different occasions, and were seen on Center

Street Bridge by three men; is that true?" He said: "Yes." He had been on the picket line and had carried a club. So I told him that there was nothing I could do for him at that time. He was to go home. If I needed him, I would call him. He hung around the office for a few minutes and I finally told him: "Go ahead on along, John. I have no time to talk to you further." He started to mumble something and I said: "Incidentally, John, why did you call Mr. Levantry a bald-headed son-of-a-bitch?"

Q. Did you hear him make that remark?

A. Yes, sir.

Q. About when was it that he made that remark?

A. I don't recall the date; it was approximately the middle of June.

Q. Where were you when you heard Mr. Opalcih make that remark to Mr. Levantry?

A. We were underneath the bridge.

Q. Where was Mr. Opalcih?

A. On the bridge.

Q. What else did you say to Mr. Opalcih before he left your office at the time of this second occasion that you spoke to him? What, if anything, did he say to you?

A. Well, he got all fussed and flustered and he said: "Oh, you call me a son-of-a-bitch?" I said: "No, John, get out of here. I have nothing more to say to you."

Q. At the time of this conversation in your office with Mr. Opalcih, was anyone else present?

A. Yes, Mr. Arthur Haig, our schedule clerk, was present in the office.

Q. Had anyone else come in with Mr. Opalcih?

A. No, sir. Mr. Callahan, my foreman, came in during the conversation.

Q. In addition to calling Mr. Levantry the name that you have stated, did you at any time hear him call any other person some names?

A. Yes, he called me the same thing.

Q. At that time?

A. Yes, sir.

Q. At that time or any other time during the strike did you make any observation about him or anything that he had done?

A. No, I saw him on the picket line on the Center Street Bridge on two different occasions.

Q. Outside of calling the names, did you notice anything that he had done?

A. No.

MR. JONES: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) You are the foreman in the open hearth, is that correct?

A. No, sir, I am general foreman of the rolling mill.

Q. General foreman of the rolling mill?

A. Yes, sir.

Q. Is that in the open hearth plant?

A. What?

Q. Is that in the open hearth plant?

A. In the open hearth plant, yes, sir.

Q. You had a conversation with Mr. Chismus on June 25th or June 27th?

A. June 27th.

Q. That was the first conversation you had with him?

A. Yes, sir.

Q. It was at that time you discussed the question of his arrest?

A. Yes, sir.

Q. Did he tell you why he was arrested?

A. Yes.

Q. What did he say?

A. First, I wanted to question the man to be sure that he was the same man that had been arrested. He was

not on our payroll as Valare; he was on our payroll as Walter. I wanted to be sure that he was the same man so I asked him: "Are you the man who was arrested?" He said: "Yes." I said: "How did it happen?" He said: "Well, I was on the picket line on the Market Street Bridge the night of the trouble up there and the police came up along there and I got mixed up with their pickets and they took me in jail."

Q. Is that the extent of his conversation with you? The explanation of why he was arrested?

A. I said to him: "Were you engaged in any unlawful practices there?" He said: "No, I was just on the picket line mixed up with the rest of the pickets during the trouble." He said: "The police picked me up."

Q. So that as far as you know—

A. I asked him if he was carrying a club and he told me he wasn't. As far as I know, he wasn't.

Q. The sole reason for your refusal to reinstate him, as I understand it, is the fact that he had been arrested, is that correct?

A. Yes, sir.

Q. Regardless of the fact that he said he was picked up by the police?

A. Yes, sir.

Q. Did he tell you at that time he was struck by a tear gas projectile?

A. What?

Q. Struck by a tear gas projectile?

A. He did not.

Q. Did he tell you whether or not he was on active picket duty at the time he was arrested?

A. He did.

Q. He said that he was?

A. He said that he was on active picket duty.

Q. And you testified about a man by the name of Opalcih?

A. Yes, sir.

Q. And during the conversation you asked him whether or not he joined the C.I.O.?

A. Yes, sir.

Q. Is it your general practice and custom to ask men in your plant whether or not they joined the C. I. O.?

A. No, sir.

Q. What?

A. No, sir.

Q. How many men have you asked whether or not they have joined the C.I.O.?

A. As near as I can recall, Opalcih is the only one.

Q. Was there any particular reason for singling out that man and making that inquiry?

A. No, I only wanted to get across to John—

Q. (By Mr. Lauter) Do you know that he joined the C.I.O. on May 23rd, 1937?

A. No, sir.

Q. Do you know that three days later you had a conversation with him in which you inquired about whether he had joined the C.I.O ?

A. Yes, sir.

MR. DAY: When was that date?

MR. LAUTER: May 26th.

Q. (By Mr. Lauter) Is that the date when you had the conversation?

MR. JONES: The 25th.

A. The 25th.

Q. 25th, two days later, and the reason why you are not rehiring or reinstating Opalcih is that he was on the picket line with a club, is that correct?

A. Yes, sir.

Q. You testified that he used some obscene language with respect to Mr. Levantry?

A. Yes, sir.

Q. What did you say that language was?

A. He said he called Mr. Levantry a bald-headed son-of-a-bitch.

Q. And you also testified that he called you the same thing?

A. He called me a big son-of-a-bitch.

Q. He made the distinction?

A. Yes, sir.

Q. Now, he has been employed in the plant—how long has he been employed in the plant?

A. I could not tell you. He has been there ever since my time and before my time with Republic.

Q. Do you know that he has been working there for 22 years?

A. No, sir.

MR. LAUTER: That is all.

MR. JONES: I think that is all.

(Witness excused.)

GEORGE W. PUTNAM

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Putnam?

A. George W. Putnam.

Q. You live where?

A. Youngstown, Ohio.

Q. How are you employed?

A. With Republic Steel Corporation as superintendent of the open hearth department, Youngstown district.

Q. How long have you been working with Republic?

A. Since February, 1933.

Q. Now, where were you employed prior to that time?

A. American Rolling Mill Company, Butler, Pennsylvania.

Q. How many years had you been with them?

A. Ten years; since 1923.

Q. Have you been occupying this same position with Republic during the entire period you have been with them?

A. During the entire period, yes, sir.

Q. How many men do you have in your department, Mr. Putnam?

A. Between six and seven hundred on full operation.

Q. And you were at the time, along in the forepart of this year and up until the strike, operating on how many turns?

A. We operated on three turns continuously in the open hearth. We adjudge our operation by the number of furnaces.

Q. Do you remember a man by the name of Richard Elder that was working for you prior to the strike?

A. Yes, sir.

Q. Do you know how long Mr. Elder had been working there?

A. He had been there ever since I had been there, and previous to that time, but I don't know how long he had worked for Republic.

Q. What was Mr. Elder's position?

A. He was first helper on No. 2 furnace.

Q. No. 2 furnace? Do you remember of having a conversation with him sometime early in March?

A. Yes, sir.

Q. Do you remember the day in March that it was?

A. No, it was along about the middle of March. I don't remember the exact date.

Q. What time in the day was it that you had this conversation, if you recall?

A. In the morning, as I recall. I make my rounds

every morning, and when I get down to the floor I usually talk to the men if I have anything to say to them, at that time.

Q. Where did this conversation occur, if you recall?

A. In front of No. 2 furnace, on which Elder was working.

Q. Now, in his testimony, Mr. Putnam, before the Board, he fixes the date of this as March 13th?

A. He is probably correct on that date. It is around there some place.

Q. Now, he says that you came to him and said this: That you had seen his name as being on the executive committee of the C.I.O., on a pamphlet of that lodge that had been thrown around?

A. That is right. It was thrown off of the Center Street Bridge.

Q. Do you remember when, with reference to that conversation with him?

A. Just a day or so before.

Q. And that he said to you he hadn't seen them, and that you said, "Well, your name is on there." He said, "Well, I haven't saw any of them." And that you then said, "Do you belong to the C.I.O.," and he said, "Yes, I do." And that that is all that was said. "They walked away and didn't say anything more to me."

A. That is correct, with one exception. He stated to me that he had told the C.I.O. not to put his name on as an executive.

Q. Did he say why?

A. No statement of why, I didn't ask him.

Q. Now, was there anything other said than what you have suggested, besides what he testified to in that conversation?

A. None other, in that conversation.

Q. Then he says that "three days later Mr. Putnam came to my furnace about 3 o'clock. I was going out to

quit at 3:00." "And he says 'On your way home' he said 'will you stop at my office, Dick? I would like to talk to you.' " And that he said, "All right, George."

A. That is true. I requested him to come to my office for an interview.

Q. Then that he did stop in and that you said to him, "Sit down, Dick." And that he sat down and then that you said, "Dick, I always thought you was a good friend of mine."

A. That statement is inaccurate.

Q. And that he said, "Well, I always have been, George, and I am yet, as far as that is concerned." Did that conversation take place?

A. That conversation in substance didn't take place. The reason I called him into the office was because I knew, after I had seen this pamphlet that he was an officer in the C. I. O. and naturally he would be organizing for the C. I. O. and I wanted to—

TRIAL EXAMINER LINDSAY: Just a minute, strike out the answer, that he would be organizer for the C. I. O.

THE WITNESS: I felt he was.

TRIAL EXAMINER LINDSAY: Just a minute. Tell the conversation.

MR. SMITH: You are striking out the entire conversation?

TRIAL EXAMINER LINDSAY: No, I am striking out the answer.

MR. SMITH: Well, now, your Honor—

TRIAL EXAMINER LINDSAY: I don't know whether this is conversation or not, that he is talking about, here.

MR. SMITH: Well, the answer, I mean.

TRIAL EXAMINER LINDSAY: Yes, until it is established that those are his deductions or whether it is the conversation he is talking about.

MR. SMITH: I just wanted to know what the record was.

Q. (By Mr. Smith) Then he says that following that that you said, "Well, it don't look like it, when you joined the C. I. O." And that he said, "I don't see why that should make any difference. I was never sore at you because you were the company man. I don't know why you should be sore at me because I am a union man." Did that conversation take place?

A. It did not.

Q. Well, that you said to him, "Well, I don't know, Dick, it don't look very good to me." And that he said, "I can't see why." And that you said, "Well, you know, Dick, what are the men dissatisfied about, up there," and that he said, "Well, I will tell you, George, every time the tonnage is put up, they are all dissatisfied. They will—" And then a hesitation—"They won't say anything to you, some of them maybe do, but most of them will holler around on the floor but they won't say anything to you about it," and that you said, "You know, yourself." "No," he said, "You know yourself that we ain't getting the tonnage that we should." And he asked the question, "Why not?" "You know there aren't any scales in this plant, they always estimate it." And he said, "I know, and we always give you good weight." "That I said, I don't think so, and nobody else does," and that you said, "Well, we have been trying to get a scale in there and I think the money has been appropriated for it, but they haven't got it in yet." And that he said, "The men would be a lot better satisfied if we had it."

Now, do you remember that conversation?

A. That subject matter is correct, but the conversation is inaccurate.

Q. Well, now, when I finish this conversation with you, I will ask you to state what your recollection of it is. And he says that you said, "Dick, I just want to tell you

that lots of times we have to let good men go that we don't like to lose, on account of union activities and I just wanted to tell you that." And that he answered and said, "O. k., George, with me if you want to let me go right now, that is your privilege, and that you said, "No, I ain't going to fire you, and that that will be all."

Now, did that conversation take place?

A. No. Not that conversation.

Q. Well, now, will you state to the Court as near as you can the substance of the conversation that you did have with him at that time?

A. The primary reason for calling Dick into the office—

MR. LAUTER: I move that "the primary reason" be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes, go ahead and tell the conversation.

Q. (By Mr. Smith) The thing, Mr. Putnam, that you want to tell is what happened and not any conclusions of yours. Now, if there was something happened that you wanted to call him in for, state it and then state what your conversation was?

A. I wanted to tell him that if he organized any organization on company time, that he was subject to discharge, because I didn't want him wasting the time of the company and the other men, decreasing production, which I told him. And he said he was not doing it. So the conversation then drifted on to the things that the men wanted and the things the C. I. O. expected to do.

Q. State what was said, if you remember, in regard to scales or tonnage?

A. He stated the thing that the men wanted was weighed ingots, they wanted an ingot scale. I stated to him that the company had considered putting in ingot scales on quite a number of occasions and that at the present time an improvement was contemplated in the blooming

mill, and it had been recommended that a scale be put in at the time that improvement went in. He stated that he thought they were getting shortage of weights. I explained to him how the weight of the ingot was arrived at.

Q. Just tell what you said to him as to how the weight of the ingot is arrived at?

A. The weight of the ingot is arrived at by—

Q. Just what you told him.

A. That is right. The weight of the ingot is arrived at by weighing the finished product out of the blooming mill, weighing the scrap out of the blooming mill, adding on a standard oxidation or soaking pit loss. The accounting department does that work.

Q. Now, what do you mean by weighing the scrap, Mr. Putnam?

A. When an ingot is rolled through the rolling mills, all of that ingot is not good product. There is a certain portion of it that is not cropped.

Q. What do you mean by "cropped"?

A. Sheared.

Q. That is, the end?

A. Cut off, the end is cut off.

Q. The end of the ingot that is not good iron for rolling is cut off, is that correct?

A. That is cut off.

Q. All right. Now, then, as I understand you, the finished material is weighed?

A. That is right.

Q. When this crop is cut off, it is weighed?

A. That is right. It is weighed in cars over a track scale.

Q. Then in arriving at the tonnage are those two weights added together?

A. They are, and also this weight of the oxidation loss, pit loss they call it.

Q. What was the addition as to the pit loss, if you know?

A. About 2 per cent. 2 per cent.

Q. How many years altogether have you been engaged in the steel business?

A. 15.

Q. You have worked in different scale mills than the Republic?

A. Just this one and the Republic.

Q. Have you been through other mills for observation?

A. A great many of them. I have worked in four different plants.

Q. Do you know whether or not that percentage is the standard percentage of other mills or not?

A. Two per cent pit loss is generally recognized as a pretty average figure.

Q. Well, what do you say as to whether or not the men were receiving accurate tonnage weights?

A. I think they were receiving fair weight, because we periodically check the weight of the ingots, actually weighing them. Corrections are made in case they are found light or in case they are found heavy. Many times they are found too heavy.

Q. So that you may state to the Court whether or not, from your investigation and the check that is made on those, as to whether, in your opinion, they are receiving the proper tonnage weights?

A. I do. I think over a period of time that their weights are—averaged up correct.

Q. Now, did you in that conversation or did you or did you not explain that situation and tell that to this man?

A. I have in many of them.

Q. When, if you remember, did you have any other conversation with Mr. Elder after the one that has just been detailed?

A. I talked to him about it at no other time but of course in the course of my work it was necessary for me to talk to every man every day. I probably talked to him about a dozen times after that but not about any of this.

Q. That was a talk you had on March 13th; that is about correct, the date?

A. I think that is probably correct.

Q. Was there any cessation or any change in Mr. Elder's position or the manner in which he worked between the time of this conversation and the strike?

A. Absolutely not.

Q. Do you remember of a conversation or any conversation with him after the 25th of June when the mill had again opened?

A. Not until August.

Q. I beg your pardon?

A. Not until August; in August.

Q. Do you remember the day in August?

A. Either the first two weeks in August. My memory tells me it is August 13th because I was holding a meeting on that day and he called during the meeting.

Q. He fixes the date in his testimony as August 2nd.

A. I don't think that is correct. I think August 13th is the correct date.

Q. At any rate, you remember having a phone conference with him?

A. He called me on the telephone.

Q. He says this: That he called you on the phone: "And I said, 'Is that you, George?' " He said: "Yes, who is talking?" I said: "Dick." He said "Is that you?" I said: "Yes." He said: "How are you doing?" I said: "All right." I said: "How about going back to work?" He said: "No, Dick, you know that I have told you—you know what I told you when you joined the C. I. O." I said: "Yes." He said "That still holds good." I will ask you whether or not that conversation took place.

A. That didn't.

Q. Now, what was the conversation that you had with him?

A. He said: "Hello." And I said: "Hello." He said: "This is Dick." I said "What do you want?" He said: "I want a job." I said: "Dick, your job has been filled. I have nothing for you." He said: "All right, George." And that is all.

Q. Had you received any word from him from the 25th of June until this date in August?

A. None whatsoever; I had not seen him.

Q. He did not, to your knowledge, come back or ask for his job?

A. To my knowledge, he didn't come back to me or anybody that I know of.

Q. Is the fact that in the operation of your plant—state whether or not it was necessary to have somebody do the work that he formerly did.

MR. LAUTER: I object to that question as incompetent, irrelevant and immaterial.

TRIAL EXAMINER LINDSAY: Read that question.

(The last question was read.)

MR. SMITH: May I answer that, your Honor? Between the 25th of June and the date on which he called?

TRIAL EXAMINER LINDSAY: Overrule the objection. Let the record show an exception.

MR. LAUTER: Exception.

Q. You may answer.

A. It was necessary to have somebody come in and work.

Q. Had you someone else employed in that capacity at the time he spoke to you?

A. At the time he spoke to me on the floor?

Q. On the phone?

A. On the phone?

Q. Yes.

A. Yes, I did.

Q. Now, do you remember a man by the name of Jerry Simcox that worked for you there?

A. Yes, sir.

Q. In what capacity was Mr. Simcox employed?

A. Second helper; No. 6 force.

Q. Now, he says that he had a conversation with you as follows: That a Mr. Cahill came up to where he was working and that you said: "Simcox, I understand you are an executive of the C. I. O." And that he said: "Well, I guess maybe you might be right." That you said: "How long have you been a member of the C. I. O.?" And that he said "I don't know. Maybe four or five months, maybe not that long, I don't know." You said: "Simcox, how many followers have you got?" He said "I wouldn't know, George. Maybe there are three or four thousand." Do you remember of having that conversation with him?

A. I do.

Q. Are the statements that he has made there a correct statement of the conversation?

A. Substantially correct.

Q. You remember the date that that was?

A. The same day I talked to Elder.

Q. Now, he also claims he says that was around March 13th or 14th or somewhere around there. "It was right after we were elected officers in our C. I. O. Lodge." Did you have any other conversation with Mr. Simcox about this matter?

A. No, sir.

Q. Do you remember of a conversation with him as to the 25th of June when the mill had been opened?

A. I had none.

Q. He does not directly make this statement as you are answering it. He says: "I called for Mr. Putnam

on the telephone and it was answered, and a man says: 'What do you want?' I want to know if you have a job. He said: 'No.' And he hung up right away on me." Did you have any such conversation with him?

A. I didn't. I had not talked to him.

MR. SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) Mr. Putnam, you are the superintendent of the open hearth, is that correct?

A. Yes, sir.

Q. About six or seven hundred men work under you?

A. That is right.

Q. And one of them is a Mr. Richard Elder?

A. Yes, sir.

Q. You had a conversation with him on March 13th?

A. Yes, sir, approximately that date.

Q. And at that time you knew he was a member of the Executive Committee of the S. W. O. C. or the local lodge?

A. Yes.

Q. How did you know that?

A. I knew it because of the pamphlet that was thrown off the bridge.

Q. How did you happen to get the pamphlet that was thrown off?

A. I picked it up in the yard myself.

Q. And that had his name on it?

A. Yes, sir.

Q. And you called him into the office?

A. No, not in the office, on the floor.

Q. What did you say to him on the floor?

A. I asked him if it was true that he was a member of the Executive Committee of the C. I. O.

Q. Is it a customary procedure for you to ask men in your department if they are members of the C. I. O.?

A. No, sir.

Q. He was the only person you asked?

A. Simcox and Elder.

Q. Why did you single them out?

A. Because their names were on the pamphlet and they were attempting to organize for the C. I. O. in the plant.

Q. Do you know of any other activities including the Employees Representation Plan in your plant?

A. What was that question?

MR. LAUTER: Read the question.

(The last question was read.)

A. I know of none outside of the regular Employees Representation Plan, that is, up until the time it became unlawful.

Q. I am asking you if you knew of the activities of the Employees Representation Plan.

A. Yes, I knew about the activities previous to this time.

Q. Well, at that time, on March 13th, that was still in existence, wasn't it?

A. They were not organizing.

Q. What do you mean, organizing?

A. In the plant.

Q. They were still in existence at the time of this organizing, this Employees Representation Plan?

A. I mean they were not taking up the time of the Company and the time of the men to get members for organizing.

Q. They never had a membership card, did they, in that organization?

A. I never seen one.

Q. Didn't you know that the Company paid for their time for attending meetings?

A. I knew up until the time it became unlawful.

MR. LAUTER: I ask that that statement of the witness be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. It may be stricken.

Q. I mean on March 13th.

MR. SMITH: May we have an exception to that?

MR. DAY: Yes, we would like an exception.

MR. LAUTER: Well, that will make it two exceptions.

TRIAL EXAMINER LINDSAY: Yes. You may have an exception.

Q. On March 13th you knew they were paying for their time, didn't you?

A. I didn't know specifically.

Q. When did you know or when did you stop knowing that they were paying for their time?

A. When I stopped attending.

Q. What is that?

A. When I stopped attending Committee meetings.

Q. What Committee meetings?

A. In the Representative Plan.

Q. What was your function under the Plan?

A. I was a member of the Committee.

Q. What Committee?

A. The No. 2 Committee.

Q. The Joint Committee?

A. Yes.

Q. How long were you a member of that Committee?

A. Ever since the inception of the Plan in the plant until I was appointed to the No. 4 Committee; the Appeals Committee.

Q. When were you appointed to the Appeals Committee?

A. The last year.

Q. 1936?

A. The last year it operated, yes, sir.

TRIAL EXAMINER LINDSAY: That would be 1937.

Q. In 1936 the elections took place and the appointments took place?

A. It covers part of two years.

Q. What is that?

A. Two years in one.

Q. My understanding—listen to my question. You were appointed in June, 1936, right?

A. I don't remember the exact date.

Q. You don't remember the date?

A. No.

Q. Do you remember the month?

A. I remember that I was appointed, yes.

Q. And that was to cover the period from June, 1936, to June, 1937?

A. Yes, sir.

Q. On March 13th, 1937, you were still a member of that Wage Committee; of the Joint Committee, is that correct?

A. I am not sure.

Q. Just take your time and see if you can recall.

A. I was a member up until the time it quit functioning.

Q. Now, do you remember if you were a member of that Committee in 1937?

A. In the spring of 1937.

Q. Anyway, March, 1937?

A. Spring of 1937 but I don't recall whether it was March or not.

Q. How often did you attend meetings?

A. Every week.

Q. How often were they held?

A. Every two months.

Q. When was the last meeting you attended?

A. The last one was in February.

Q. And you don't know whether any meetings were held in April?

A. No, I don't recall.

Q. You don't know although you are superintendent of the open hearth that the Employees Representation Plan continued through March of 1937, is that what you are saying?

A. I know it continued up until the time it was stricken out by law.

Q. Don't you know that it went through until March?

A. No, sir.

Q. Do you know the date of the Wagner Act and when it was upheld by the Supreme Court?

A. I believe it was April.

Q. Do you know if any action was taken with respect to the Employees Representation Plan and the dissolution of the Plan?

A. I understood it was dissolved.

Q. Formally?

A. I don't understand.

Q. Were any formal steps ever taken?

A. I was not in on the decisions when they were made.

Q. Just answer my question. Were there any formal steps taken?

A. I don't know.

Q. You don't know?

A. No, sir.

Q. So far as you know, this thing is still in?

A. I don't know when it was done.

Q. But you do know that formal steps were taken to dissolve the Employees Representation Plan?

A. Yes, sir.

Q. Formal steps were taken?

A. Yes, sir.

MR. DAY: He didn't say that at all.

TRIAL EXAMINER LINDSAY: Let us not argue.

MR. LAUTER: Will you read back five or six questions?

(The last five questions were read.)

Q. Is that testimony correct?

A. So far as I know, it is.

Q. Were formal steps taken, so far as you know, to dissolve the Employees Representation Plan?

A. I never heard anybody say they were but they must have been.

Q. I am not interested in your speculations; I am interested in what you know. Do you or do you not know?

A. I heard it talked of at the meetings and I thought it was dissolved.

Q. Are you speculating or are you stating from your own knowledge that formal steps were taken?

A. I am going on the basis of my not attending any further meetings.

MR. LAUTER: I ask that that remark of the witness be stricken from the record.

MR. DAY: I think it should remain.

MR. LAUTER: I am asking him if he knows if any formal steps were taken.

TRIAL EXAMINER LINDSAY: Yes. That may be stricken from the record.

MR. SMITH: May we have an exception?

TRIAL EXAMINER LINDSAY: Yes, you have an exception.

A. I didn't formulate the dissolution.

Q. I am not asking you that. I am asking you whether you know that any formal steps were taken to dissolve the Employees Representation Plan.

A. They were.

Q. You know that?

A. I think they were.

Q. Do you know that?

A. I think they were.

Q. Do you know whether they were?

A. I don't, because I don't set the policy of the company.

MR. LAUTER: I move that the remarks of the witness about setting the policy of the company be stricken.

TRIAL EXAMINER LINDSAY: Yes, that is stricken.

MR. DAY: May we have an exception?

MR. SMITH: May we have an exception?

Q. (By Mr. Lauter) I will ask you again once more do you know whether or not any formal steps were taken to dissolve the Employees Representation Plan?

A. I don't know positive.

Q. You were at a meeting in February, 1937, member of the Joint Committee of Ways and Means, is that correct?

A. According to the best of my knowledge, yes.

Q. All this testimony is according to the best of your knowledge?

A. Yes, but my memory is not so good that I can remember all those things.

Q. You remember the conversation of March 13th, don't you?

A. Yes, I do.

Q. With Mr. Elder?

A. Yes, I do.

Q. Do you remember the conversation with Jerry Simcox?

A. Yes.

Q. But you don't remember whether or not you attended a meeting in February, 1937, is that correct?

A. I remember that I did, yes.

Q. You did?

A. Yes.

Q. Now your memory is all right, now, about that meeting, isn't it?

A. You asked me—

Q. I am asking you whether your memory is all right about that meeting. Do you remember the meeting?

A. Yes.

Q. Where was it held?

A. Held in the general office.

Q. Who else attended besides you?

A. Mr. McCoy, Mr. Kraft, Mr. Murphy.

Q. Who is Mart Murphy? That is Mart Murphy you are referring to?

A. Yes, sir. That is Mart Murphy, yes.

Q. What is his position in the mill?

A. He is the engineer at the Bessemer, Youngstown.

Q. Who was the other employee representatives who attended that meeting?

A. Oh, I can get the record for you and show you.

Q. I don't want the record, I want you to tell me what you remember? Your memory is all right, about that meeting.

A. Those are the only ones that I remember.

Q. Is that all that you remember?

A. That is all that I remember.

Q. Now, when was the meeting before that, that you attended, before February, 1937?

A. Two months before.

Q. That would be December, 1936?

A. As I remember it, yes, sir.

Q. Do you remember the Employees Representatives who attended that meeting?

A. The same group, approximately.

Q. Do you remember any other Employee Representatives except Mart Murphy? I am not talking about com-

pany representatives, I am talking about Employee Representatives under the Plan?

A. I don't recall who was at that meeting, no.

Q. Do you know whether or not the Employee Representatives got paid for attending meetings?

A. I understand they did.

Q. Do you know that all of the expenses of the Employees Representative Plan were paid by the Republic Steel Corporation?

A. I don't know that, no, sir.

Q. Did you receive copies of minutes?

A. I do.

Q. Do you know who paid for those?

A. No, I don't.

Q. You don't know who printed them?

A. No, I don't. I never saw the bill.

Q. Don't know who mimeographed them? That is right?

A. No, I do not.

Q. How did you receive them?

A. Through the mail.

Q. Company mail?

A. Yes, sir.

Q. Did you ever see the copy of the by-laws?

A. Yes.

Q. Do you know who printed those?

A. No, I don't.

Q. But you were in the organization from its inception?

A. I was.

Q. Do you know how the organization was started?

A. Do I know how?

Q. That is right.

A. Yes.

Q. How did you happen to be appointed to one of the committees under the Plan?

A. By the district management.

Q. And you sat on the Joint Committee all during its existence, is that correct?

A. That is right.

Q. You sat with Employee Representatives who were being paid for time they spent for attending meetings, is that right?

A. That is correct.

Q. And when you saw Mr. Elder's name on the executive committee of the C. I. O. also you felt that it was your duty to call him in to tell him not to organize, is that right?

A. In the plant.

Q. In the plant, that is right?

A. Yes, sir.

Q. That is what I am referring to?

A. Yes, sir.

Q. During all the time that these company representatives—Employee Representatives were being paid by the company, is that right?

A. Not during that time, no, sir.

Q. Well, they were paid in March and April, weren't they?

A. I don't know whether it extended up as far or not. I don't know the exact date when it was cut off.

Q. You didn't make inquiry to find out whether they were cut off, did you?

A. No, sir.

Q. Before you spoke to Mr. Elder?

A. No, sir.

Q. But you felt that he would organize, is that right?

A. I did.

Q. And you felt that it was his duty not to waste time of employees or his time organizing the plant?

A. I felt that was, or it was. Certainly.

Q. You didn't consider it a waste time for employees

under the Employees Representation Plan to spend their time on the Employees Representation Plan, did you?

A. I did not.

Q. No, that wasn't a waste of time?

MR. DAY: I move the last remark be stricken out.

MR. LAUTER: I will withdraw that remark.

Q. (By Mr. Lauter) Now, on August 13th Mr. Elder spoke to you, is that right?

A. Yes, sir.

Q. What was the conversation you had with him?

A. He said, "Hello, is this George?" I said, "Yes, this is George. Who is this?" He said, "It is Dick." "What do you want Dick?" "Have you got a job for me?" I said, "No, Dick, your job has been filled." He says, "All right." And hung up.

Q. When did you fill his job?

A. I filled his job in the first part of July after we started up, after the strike.

Q. After what strike?

A. The strike of May 26th to June 25th.

Q. You mean after they opened the mill? You don't think the strike is over, do you?

A. I don't know. We are operating.

Q. You don't know whether the strike is over?

A. We are operating.

Q. I know. On March 13th you also had a conversation with Jerry Simcox, is that right?

A. That is right.

Q. And you asked him if he was a C. I. O. member?

A. I did.

Q. How did you come to ask him whether he was a C. I. O. member?

A. Because I had seen his name on this pamphlet that was thrown off the bridge.

Q. And that pamphlet stated that he had been elected at a meeting held on the previous day, is that correct?

A. His name appeared there.

Q. His and Elder's name?

A. His and Elder's.

Q. Those were the two men you spoke to the very same day when you saw the pamphlet, is that correct?

A. I think it was a day or two afterwards, as I stated before.

Q. A day or two after what date?

A. After I had gotten the pamphlet, that I spoke to him.

Q. The day that you spoke to him, do you know whether the foundry also shut down on that day?

A. No, I don't.

Q. Do you know that it shut down at all?

A. I know the foundry shut down, but I don't know the date.

Q. Do you know that it was sometime in March?

A. I don't know whether it was March or not.

Q. Do you know how long Richard Elder has worked at Republic?

A. No, sir.

Q. You don't know whether it is somewhere in the neighborhood of 12 to 16 years?

A. I do not. He worked there all the time I was there.

Q. Did you ever select him to work on a new furnace? Start a new furnace?

A. I did.

Q. Because he was the best first helper on the turn?

A. No, sir—Did you say in the plant or on the turn?

Q. On the turn?

A. I felt as though he was one of the best.

Q. That is why you selected him?

A. That is right.

Q. To start up a new furnace? Have you called any of the men to come back to work?

A. Have I called any to come back to work?

Q. Yes.

A. No.

Q. Did you instruct any of your foremen to call?

A. No.

Q. Did you tell them to line up crews?

A. I have told them to get their crews together for operation.

Q. And in connection with lining up their crews were they to contact the men?

A. They weren't.

Q. How were they going to line them up?

A. The men came in.

Q. That was the only instructions you gave to the men?

A. To the foremen.

Q. That is right.

A. No, I told the foremen after we had started to operate, that if there is anybody called up, to tell them to go to the employment office, that they would be registered there.

Q. As new men?

A. No, as men whom we had picked to fill our crews when we needed.

Q. How is that?

A. As men whom we would take to fill our crews as we needed.

Q. You never gave any instructions to any foremen to have them get in touch with the men, to have them come back to the mill?

A. No, sir.

Q. How many new men do you have in your department?

A. There is 30 approximately.

MR. LAUTER: That's all.

MR. SMITH: That is all, Mr. Putnam.

(Witness excused.)

JONES M. CAHILL

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your full name, Mr. Cahill?

A. Jones M. Cahill.

Q. You reside where?

A. In Youngstown, Ohio.

Q. And you are employed where?

A. By Republic Steel Corporation.

Q. In what capacity?

A. As assistant superintendent of the open hearth department.

Q. Are you in the same department as Mr. Putnam, who has just testified?

A. I am.

Q. Are you his assistant?

A. I am his assistant.

Q. How many years have you been employed in the steel business?

A. Since 1910.

Q. How many years with the Republic?

A. Since July, in July of 1933.

Q. Where were you employed prior to that time?

A. At Ashland, Kentucky, with the American Rolling Mill Company.

Q. How long have you been acting as assistant under Mr. Putnam—during the entire period you have been working for the Republic?

A. I have.

Q. Do you know Mr. Simcox who worked in your department?

A. I do.

Q. I believe you heard Mr. Putnam testify about a conversation he had, I believe back of furnace No. 6, is that correct?

A. I did.

Q. Do you recall that conversation as—that they had —was as Mr. Putnam has stated?

A. It was correct as Mr. Putnam stated.

Q. Did you have any conversation by yourself with Mr. Simcox at any time?

A. I did, several days later.

Q. Do you know about what time that was?

A. It was in the morning around, I should say about 10 o'clock, several days after we had talked to him at the furnace.

Q. Now, Mr. Simcox refers to a conversation without, I believe, fixing the date, in which he talked to you in regard to a promotion. He was a second helper, wasn't he?

A. He was.

Q. In a talk with you about a promotion to first helper?

A. Yes, sir.

Q. And he says that you says, "Well, Simcox, I don't know. We usually pick the oldest men," and he said, "I don't know about you later." "I said, 'What do you mean, Jonesy, just explain to me what you mean?' " And that he said, "I am here for advancement and I don't expect to be a second helper all my life. I would like to be a first helper and maybe some day I will go melting. I would like to step up. I want to know what is the matter, I would like to improve myself," and that you said, "I don't know, the last two weeks your activities don't seem very good in my estimation." And that he said, "What is it? My work

around the furnace is not satisfactory? Was the foreman kicking or what?'' And that you said, ''No, it is just your activities. I don't know.'' ''I said, 'Do you think there is any chance of me ever being a first helper?' And he said, 'I don't know, Simcox, according to my estimation, I don't think there is.' ''

Now, did you have such a conversation with Mr. Simcox?

A. I remember that conversation with him, but his statements are incorrect.

Q. State what the conversation was, Mr. Cahill, as you remember?

A. Simcox asked me what his opportunities would be for advancement as a helper and I told him that I, as his superior, was not satisfied with his work, and I pointed out the several points where I thought he was short in his work as second helper. But I did tell him that if the opportunity came later on, we would consider him. But that at the present time neither from the standpoint of his length of service or the length of his experience as a second helper, was he entitled to a first helping job. Now, that is the—something along that—

Q. Did you, in your conversation, say anything to him about his union activities or other activities?

A. No, absolutely not.

Q. Did you have a conversation with Mr. Simcox on any matters that you know of?

A. In the course of his work, we of course talk with those men.

Q. I know.

A. But not on those matters, no further conversation.

Q. Did you have any talk with him after June 25th when the mills had been opened?

A. No further conversation.

Q. He never called you or anything of that sort?

A. He never called me. I never talked to him since the men went out on strike.

Q. Now, do you remember of any conversation with Mr. Elder after the 25th of June when the mills were opened?

A. I have never talked to Dick at the plant since then.

Q. He says that he called up there and asked for Mr. Putnam and that somebody answered and he asked about a job and then wanted to know if they had a job there, and they said no and hung up on him. Did you have such a conversation?

A. I did not.

Q. Was there anyone else aside from Mr. Putnam or yourself in the office there that would have any authority to discuss that question?

A. No one else.

Q. No one else?

A. No.

MR. SMITH: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) You are the assistant superintendent in the open hearth with Mr. Putnam, is that correct?

A. That is correct.

Q. Do you recall a meeting being held two or three weeks before the strike in which Mr. Levantry and Mr. Putnam spoke?

A. Yes.

Q. Did you attend that meeting?

A. I did.

Q. How long did that meeting last?

A. I should say around 20 minutes.

Q. Where was that meeting held?

A. In the chain house at the open hearth.

Q. How many men were there?
A. Repeat that question?
Q. How many men were there?
A. I should think 100 or 125 men.
Q. What time of the day did it take place?
A. Some time during the—early before noon.
Q. It was on Company time?
A. What is that?
Q. It was on Company time?
A. It was on Company time.
Q. During the turn?
A. Yes, sir.
Q. Mr. Levantry spoke and Mr. Putnam spoke?
A. Yes, sir.
Q. State for the record what Mr. Levantry said.
A. Mr. Levantry related the Company policy.
Q. Just tell us what he said.
A. It wasn't necessary for any men to join any Union to work for the Republic. That was the essence of his talk.
Q. Now, what else did he say?
A. I can't remember all the statements.
Q. How long did he speak?
A. I would say about three or four minutes.
Q. How long did Mr. Putnam speak?
A. Mr. Putnam spoke about that long.
Q. Three or four minutes?
A. Three or four minutes or five minutes.
Q. A total of not more than 10 minutes?
A. I would say so.
Q. Who else spoke at the meeting?
A. No one.
Q. I believe you said that the meeting lasted about 20 minutes. How do you reconcile the fact when Mr. Putnam spoke four or five minutes and Mr. Levantry spoke only four or five minutes or a total of 10 minutes?
A. It took time to get the men together, to assemble

them and to call them in to order and finish up the meeting.

Q. What did Mr. Putnam say at that meeting?

A. Essentially the same as Mr. Levantry.

Q. What remarks were made about the C. I. O.?

A. The remarks by Mr. Levantry was that it would not be Republic policy to sign with the C. I. O.

Q. What remarks were made by them about organizing the plant on Company time?

A. That they didn't want it. We, of course, would have to handle each individual case that came up about organizing on Company time.

Q. That is what Mr. Levantry said?

A. No.

Q. Mr. Putnam?

A. Yes, handling each case individually.

Q. And it was a policy not to permit organizing for the C. I. O. on Company property and Company time?

A. That is right.

Q. That would total how many men?

A. Between 100 and 125 men.

Q. Any mention made about a strike?

A. What?

Q. Any mention made about a possible strike?

A. Not that I recall.

Q. Any mention made about the Employees Representation Plan?

A. Yes, there was.

Q. What was said?

A. It was said—the sense of the talk was to show the benefit that had been derived from the Employees Representation plan since its inception.

Q. Let me understand your correctly.

A. Yes.

Q. They talked at that meeting to the men that attend-

ed it about the benefits that had been derived from the Employees Representation Plan?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And then they were told they were not to organize, the C. I. O. men in the mill?

A. Yes, sir, on Company time.

Q. Is that right?

A. Yes, sir.

MR. LAUTER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will have a recess at this time.

(Recess had.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

(Discussion off the record.)

MAURICE A. ADHEMAR

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Smith) What is your name?

A. Maurice A. Adhemar?

Q. Where do you live, Mr. Adhemar?

A. Youngstown, Ohio.

Q. How long have you lived there?

A. For 28 years.

Q. How are you employed?

A. Employed at the Republic Steel Corporation.

Q. In what capacity?

A. As assistant to the employment manager.

Q. Assistant to the employment manager?

A. That is right.

Q. Who was the employment manager?

A. Mr. E. R. Rose.

Q. Where is Mr. Rose, if you know, Mr. Adhemar?

A. He is sick in bed right now.

Q. Do you know how long he has been confined to his house?

A. The last three days, that I know of.

Q. Now, have you received information asking you to check up on the employment card of Charles Neverdusky?

A. Yes.

Q. Now, briefly state the file system you have in your employment office.

A. We have two files. An active for the men that are working and an inactive file.

Q. Now, on the file that you have there, what is the nature of this file? Do you have a card with you of the cards that are used now?

A. Yes, I have. Here it is (handing a card to Mr. Smith).

Q. Is the card that you have just handed to me a copy of the card in your file as of Charles Neverdusky?

A. Right.

Q. Now, you say you have an active file and an inactive file?

A. That is right.

Q. You may state whether or not at the time of the strike on May 26th, 1937, your active file would contain a card similar to the one you have spoken of which I am going to have marked for each of the men employed in the Youngstown District of the Republic Steel Corporation that were working?

A. Yes.

Q. Who has charge of these files in the office, Mr. Adhemar?

A. I do.

Q. Are you in a position to state as to whether or not on June 25th, the date on which the mill opened, if the active file contained the names of all of the employees of the Youngstown district of the Republic Steel Corporation that were working and on the active list on May 26th?

A. Yes.

MR. SMITH: I ask to have this card marked as Respondent's exhibit for identification.

(The card above referred to was marked as Respondent's Exhibit 40 for identification.)

Q. Do you know Mr. Neverdusky? Personally?

A. No.

Q. When you were requested by my office to see what the status of Mr. Neverdusky's employment card was, just state what you did in connection with getting this information, and where you found his card?

A. I finally looked him up by his name and check number and found him in the inactive file.

Q. Have you any record that shows when, if at any time, this had been placed in the inactive file?

A. It is marked on the card what date it was put in the inactive file.

Q. What date was that?

MR. LAUTER: Well, I will object to the witness testifying about something that is on the card. There is no basis—

MR. SMITH: I will now offer the card.

MR. LAUTER: We will object to the offer on the ground that it is a copy, not the original. No basis made for introduction.

Q. (By Mr. Smith) Did you bring the original?

TRIAL EXAMINER LINDSAY: Will you read the objection?

(Objection read by the Reporter.)

TRIAL EXAMINER LINDSAY: Ruling reserved.

MR. SMITH: Your Honor, I would like to suggest that if that is the basis of the objection, that we would like to have the opportunity to bring the original here so that it can be compared with the copy, to show that it is correct.

TRIAL EXAMINER LINDSAY: Well, that is your case. You may do as you see fit on that.

(Consultation held off the record.)

MR. SMITH: Will the Court grant leave, after this witness has testified, for us to present the original for comparison?

MR. LAUTER: Well, I should like to renew objection to that, on account I would like to have an opportunity to cross examine the witness with respect to any exhibit introduced by the Respondent.

TRIAL EXAMINER LINDSAY: Yes, you can't have that privilege. You should have known that a copy is not receivable, at least give him a chance to have it compared with the original. The objection to the admissibility of this exhibit, which also carries no number, at least as far as you have stated—

MR. SMITH: Well, it is numbered 40; Respondent's Exhibit 40.

TRIAL EXAMINER LINDSAY: All right, Respondent's Exhibit No. 40 is—the objection to the admissibility of Respondent's Exhibit No. 40 is sustained.

Q. Mr. Adhemar, are you in a position of your own personal knowledge to state when, from your records, it is shown that the card of Mr. Charles Neverdusky was placed in the inactive list? Now, you can answer that by yes or no?

A. Yes.

Q. Now, what was that date?

A. May I ask the date of the letter or the card?

Q. I am asking you—

MR. SMITH: Just read the question.

(Question read by the Reporter.)

A. Yes.

Q. Now, what is that date, as shown on your records?

A. The 27th of July.

Q. From the examination of your records, are you in a position to testify as to where that card was, prior to July 27th, 1937? You may answer that yes or no.

A. Prior to July 27th?

Q. Yes, as to where that card was.

A. Yes.

Q. Now, where was it?

A. It was in the inactive file with a letter attached to it.

Q. Where?

A. In the inactive file.

Q. I am asking prior—Now, just a minute, I don't know whether you understood my question.

MR. SMITH: Will you read that to him again?

(Question read to the witness by the Reporter as follows:

"Q. From the examination of your records, are you in a position to testify as to where that card was, prior to July 27th, 1937? You may answer that yes or no.")

A. In the live file.

MR. LAUTER: Well, now, wait. There is a partial answer to that.

TRIAL EXAMINER LINDSAY: Yes.

MR. SMITH: Well, I ask that the answer be withdrawn, not responsive.

TRIAL EXAMINER LINDSAY: Mr. Lauter has a right to have it read.

(Thereupon the record was read by the Reporter.)

MR. LAUTER: I claim the answer, if you please.

TRIAL EXAMINER LINDSAY: Just let the answer stand.

MR. SMITH: All right, I have no objection. You may cross examine—Oh, just one other question. I was under the impression that I asked leave to produce the original. I think the Court did not grant that leave, is that correct?

TRIAL EXAMINER LINDSAY: No, I didn't refuse it. I said the card should have been produced here when the witness was on the witness stand, so as to give the privilege of cross examination on that subject to the attorneys representing the Board. That is one thing. Now, if you get that card here and put this witness back on the witness stand, and that is agreeable to counsel representing the Board, that is another thing.

MR. SMITH: I would like to understand how—

TRIAL EXAMINER LINDSAY: Well, you understand now, don't you?

MR. SMITH: Well now, may I ask this question, please? I cannot see how that, if the original record shows that this copy is an exact copy, that there would be anything to cross examine this witness about.

TRIAL EXAMINER LINDSAY: Well, of course, what you see and what someone else sees—you are not telling me that you are wanting to deprive counsel for the Board of the privilege of that cross examination.

MR. SMITH: No, not at all.

TRIAL EXAMINER LINDSAY: And he is the best judge of that.

MR. SMITH: It was my—I think we can get

the original here this afternoon. Now, it was my—

TRIAL EXAMINER LINDSAY: Well, why argue about it?

MR. SMITH: It was my instructions to have the original here, your Honor, with a copy, and it was misunderstood.

TRIAL EXAMINER LINDSAY: All right.

MR. SMITH: Then I will withdraw—with the permission of the Court we will withdraw this witness until we get the original here, and then we can put him back on, today, to make the identification.

MR. LAUTER: Well, I should like to have the privilege of cross examining him with respect to the testimony that he has already given.

TRIAL EXAMINER LINDSAY: Yes, you may have that right, now, if you so desire.

MR. SMITH: Well, I haven't yet—

MR. LAUTER: It may be that counsel will decide not to put the witness back on the stand and I will lose my privilege.

MR. SMITH: You say you—I will put him back; I have not yet finished my examination.

MR. LAUTER: All right.

MR. SMITH: So I would like to—under those circumstances—have the privilege of putting him back on after we get this card, and to finish the examination.

MR. LAUTER: I am not making any objection to that, if it is understood the witness is to return.

MR. SMITH: The witness will be here.

MR. LAUTER: And that I will have an opportunity to cross examine this witness.

MR. SMITH: He will be here.

MR. LAUTER: On the entire testimony, that is the direct.

MR. SMITH: He will be here.

TRIAL EXAMINER LINDSAY: Now, my rul-

ing will be on that, that if he is not here for cross examination, we will just have to strike your testimony.

MR. SMITH: Well, your Honor, I have given you my word that he will be here.

TRIAL EXAMINER LINDSAY: All right. Mr. Day, you came up here and told me that that concludes the testimony on Youngstown, with the exception of recalling this one witness.

MR. DAY: On Youngstown, and we want to fill in, with relation to Youngstown, Warren, and Niles, in our offer to prove, certain figures which we spoke to you about the night before last, we wanted to check up.

TRIAL EXAMINER LINDSAY: But there are no more witnesses from Youngstown except the recalling of this witness.

MR. DAY: That is correct. We may have one witness from Warren and Niles.

EUGENE GEORGE

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Eugene George.

Q. Keep your voice up.

A. Eugene George.

Q. Where do you live?

A. Canton, Ohio.

Q. By whom are you employed?

A. Republic Steel.

Q. How long have you worked for Republic Steel Corporation?

A. Ten years.

Q. And in what capacity are you employed at the present time?

A. Chipper foreman.

Q. How long have you worked as a chipper foreman for the Republic Steel Corporation?

A. Just since the strike was ended.

Q. I can't hear you.

A. Just since the plant opened after the strike.

Q. Prior to the strike on the 26th of May, 1937, what position did you have with the Republic Steel Corporation?

A. Grinder foreman.

MR. LAUTER: May I interrupt? I just want a correction in the witness' testimony; he said "since the strike was over" or something to that effect. I move to strike that remark.

(Record read by the Reporter.)

MR. LAUTER: I demand to correct the testimony of the witness that it is since the mill opened, or something like that.

MR. KETTERER: That is all right.

TRIAL EXAMINER LINDSAY: Then I understand that "since the strike was ended" is by consent stricken from the record.

(Record read by the Reporter.)

Q. And how long were you a grinder foreman prior to the 26th day of May, 1937?

A. Two years.

Q. I will ask you to state, Mr. George, whether or not there was a man by the name of Mike Ugranovich in your grinding department?

A. Yes, sir.

Q. Do you recall how long he worked under you as a foreman?

A. In '34, I believe.

MR. LAUTER: There may be some confusion.

You used the words "under you as a foreman". You mean Mr. George is the foreman?

MR. KETTERER: Yes.

MR. LAUTER: And Ugranovich worked under him.

Q. (By Mr. Ketterer) What position did Mr. Ugranovich have, from 1934 on?

A. He had a job as grinder.

Q. Now, just what kind of a job is that and what did he do as grinder?

A. He removed the defects from steel with a grinding wheel.

Q. Now, do you recall when he was let off?

A. He was let off on February 8th, 1937.

Q. What turn was he working? What turn were you working at that time?

A. On the midnight turn, 12 to 8.

Q. Now, did you see Mike Ugranovich that night some time after midnight?

A. I did.

Q. Where was it that you saw him?

A. At his machine.

Q. At what place in the plant of the Republic Steel Corporation?

A. In the grinding department.

Q. Do you recall about what time that was with respect to 12 o'clock?

A. Shortly after 12; possibly 5 minutes.

Q. Prior to the time that you saw him there, had you talked with anybody about him?

A. I did.

Q. To whom did you talk to, without giving the conversation?

A. With the inspector.

Q. Do you recall his name?

A. John Foster.

Q. Where were you when you talked with this inspector?

A. In the middle of the grinding floor.

Q. Now, after you talked with the inspector, what, if anything, did you do?

A. Well, I went immediately up to where Mike Ugranovich was working.

Q. How close did you stand to him there that night?

A. Side by side.

Q. Now, did you have any conversation with Mike Ugranovich there?

A. I did.

Q. Tell us as nearly as you can what conversation you had with Mike Ugranovich there.

A. Well, I asked Mike; I says: "Mike, what is the matter?" And he stood up.

Q. Now, what else, if anything, was said?

A. Nothing was said at that time.

Q. What did you observe about him when he stood up, if anything?

A. An odor of liquor was very strong on his breath.

Q. Anything else?

A. And his condition of his work showed that he was intoxicated.

MR. LAUTER: Well now, I move that the remarks of the witness be stricken from the record with respect that his condition showed that he was intoxicated.

TRIAL EXAMINER LINDSAY: Yes. That is stricken.

MR. KETTERER: Yes.

Q. Just describe the grinding that is done and which was supposed to be done by Mike Ugranovich that night.

A. Well, the billet is laid on a block up from the grinding and he works—his work is done horizontally. On observing Mike's work I noticed that he had been running

around in circles. By that I mean the surface of the steel had a circular motion.

Q. Now, what if anything did you do after you had asked Mike what the trouble was?

A. Why, I told him to stay at his machine until I went and got the turn foreman.

Q. I will ask you to state for the purpose of refreshing your recollection whether or not you made any statement to him as to whether he was intoxicated.

A. No, I didn't.

MR. LAUTER: What is that?

A. I didn't

MR. LAUTER: Thank you.

Q. Now, did you go to the turn foreman?

A. I did.

Q. Who was the turn foreman?

A. Charles Eichelberger.

Q. Do you recall where you found Mr. Eichelberger?

A. He was over in the chipping department.

Q. What is his position?

A. Turn—

Q. In the plant?

A. Turn foreman.

Q. He is what?

A. Turn foreman.

Q. I will ask you to state whether or not he is your immediate superior.

A. He is.

Q. Now, did you talk with Mr. Eichelberger?

A. I did.

Q. Tell us what you told him.

TRIAL EXAMINER LINDSAY: Just a minute, please.

(Discussion had.)

MR. KETTERER: Will you read that last question?

(The last question was read.)

A. Well, I said: "Ike, I have got a man down there that is in no condition to work."

Q. Now, did you say anything else?

A. No, sir.

Q. All right. Now, what if anything did you and Mr. Eichelberger do following that statement by you?

A. Well, we came down to the grinding department where Mike was working or standing by the machine.

Q. How long was that after you h. i first seen Mike Ugranovich?

A. Possibly three or four minutes.

Q. Now, did either you or Mr. Eichelberger have any talk with Mike Ugranovich there then?

A. Mr. Eichelberger did at that time.

Q. Now, tell us what was said, as nearly as you can recall, at that conversation.

A. Well, he asked Mike, he said: "What is the matter?" And then he says: "Don't you know that you are not supposed to go to work in that condition?" He said: "You better go home and go up and see Mr. Hopkins in the morning."

Q. Now, was anything said further to Mike Ugranovich at that time?

A. No.

Q. Now, did Mike Ugranovich make any statement to you?

A. None whatsoever.

Q. Now, did you have any further talk with the turn foreman about Mike Ugranovich?

A. I did.

Q. What did you tell him, if anything, concerning Mike Ugranovich?

A. Well, we was discussing the situation there and as Mike had—

MR. LAUTER: I move that the remarks of the

witness with respect to talking the situation over be stricken from the record.

TRIAL EXAMINER LINDSAY: Yes. That is stricken from the record.

MR. KETTERER: Yes.

A. (Continuing) I said: "Ike," I said, "this fellow has a habit of laying off on pay day, and I talked to him before about coming to work with liquor on his breath, and I recommend him for a layoff."

Q. Now, how many times did you talk with Eichelberger during the time about Ugranovich coming to work with liquor on his breath?

A. Once or twice.

Q. By the way, did you observe the way that Ugranovich walked from where you and Eichelberger were standing that night? Answer that question yes or no.

A. Yes.

Q. Did you observe it or didn't you?

A. Yes.

Q. Now, describe the manner of his walking after he left the place where you and Eichelberger were standing that night.

A. He had a wobbly step and walk.

Q. Now, did you ever see Ugranovich after that, if you can recall?

A. No, sir, not at all.

Q. You didn't talk with Mr. Hopkins yourself about it?

A. I didn't.

Q. Now, I will ask you whether or not in your capacity as a grinder foreman you had the power to hire or discharge men.

A. I haven't.

Q. What is your power in that respect, if any?

A. A recommendation.

Q. To whom did you make your recommendations?

A. To my turn foreman.

Q. That is somebody in the capacity of Mr. Eichelberger?

A. Yes, sir.

Q. Are you acquainted with a man by the name of William Dunn?

A. I am.

Q. Does he work in your department at the Republic Steel Corporation?

A. He does.

Q. What is his position there?

A. Loader.

Q. What?

A. Loader.

Q. I will ask you to state whether or not William Dunn is a foreman.

A. He is not.

Q. Are you acquainted with a man by the name of Schnierle at the Canton plant of the Republic?

A. I am.

Q. Does he work in your department?

A. He does.

Q. What is his job there?

A. Billet classifier.

Q. I will ask you to state whether or not, Mr. George, he is a foreman.

A. He is not.

MR. KETTERER: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) Your name is Eugene George, is that correct?

A. Yes, sir.

Q. You were a grinder foreman—

A. Yes, sir.

Q. —prior to the strike?
A. Yes, sir.
Q. Now, you are a chipper foreman, is that correct?
A. Yes, sir.
Q. You testified about a conversation with Mike Ugranovich.
A. I did.
Q. What was the date of that conversation?
A. It was February 8th.
Q. Do you remember what time of day that was?
A. Possibly 5 after 12.
Q. Now, what did you say to Mike Ugranovich at that time?
A. I said: "What is the matter?"
Q. Was this 5 after 12 at night or in the daytime?
A. Night time.
Q. Is that the 11 to 7 turn?
A. 12 to 8.
Q. 12 to 8 turn?
A. Yes, sir.
Q. Mike Ugranovich was at his machine at that time?
A. He was.
Q. He was working?
A. He started to work.
Q. He started to work?
A. Yes.
Q. When did your first notice Mike Ugranovich that night?
A. When the inspector called my attention to it.
Q. Where was the inspector when he called your attention?
A. Standing around in the vicinity of Mike's machine.
Q. Now, that is John Foster?
A. Yes.
Q. Where is his machine located?
A. In the grinding department.

Q. What is that?
A. In the grinding department.
Q. How large is the grinding department?
A. Forty wheels.
Q. I mean, how large in terms of feet?
A. About 200 on each side.
Q. Did you notice Mike Ugranovich before John Foster spoke to you about it?
A. I did not.
Q. You were in that same room?
A. I was.
Q. But you didn't notice his condition?
A. Not at that time.
Q. Now, what is the nature of Mike's work? Does he stand at the machine and operate it?
A. He does.
Q. When you came up to him he was not walking, is that correct? He was standing there working?
A. He was.
Q. You said to him: "Mike, what is the matter?" Is that correct?
A. Yes.
Q. That is all you said to him?
A. That is all I said to him.
Q. And he said nothing to you in reply?
A. No.
Q. Did you wait for an answer?
A. He didn't vouch any. He just stood there.
Q. I am asking you if you waited for an answer? For any answer to come from him?
A. No.
Q. Did you repeat your question?
A. Yes.
Q. How many times did you repeat your question?
A. Once.
Q. Once is that?

A. Once after he stood up.

Q. What did you ask him then?

A. I asked him: "What is the matter?"

Q. He said nothing.

A. He said nothing.

MR. DAY: I take it by that you mean he made no reply?

MR. LAUTER: That is right; he made no reply.

Q. When was the first time you noticed the odor of liquor was strong on his breath?

A. When he stood up.

Q. You didn't notice it when he sat down?

A. He doesn't sit down.

Q. But you said he was sitting down?

A. Well, he stoops over.

Q. You didn't notice it when he was stooping over? When he was stooping over the machine but when he straightened up you noticed that he had a strong odor of liquor on his breath?

A. I noticed it when he straightened—when he turned his face towards me.

Q. What is that?

A. When he turned his face towards me.

Q. He operates this machine. Does that require a stooping position?

A. It does.

Q. How far does a man have to bend over on the machine?

A. From his waist down.

Q. Now, you stand up. Stand up and show me how Mike Ugranovich has to bend over.

A. Possibly like that (indicating).

Q. Does he constantly have to stand in that position?

A. It is not necessary, no.

Q. How long a period of time does he have to stand in that position?

A. There is no set rules as to that.

Q. In order to operate his machine, does he have to stand over half of his time? Bend over that time?

A. Yes.

Q. At least half?

A. Yes.

Q. At least three-quarters, perhaps?

A. There is different positions for him to change his position.

Q. At least half of his time he has to stand in a stooping position at his machine?

A. Yes.

Q. When did Mike Ugranovich—when you came over to him was he tottering?

A. No, he wasn't.

Q. He was stooping over his machine?

A. He was.

Q. How long did you stay where Mike Ugranovich was at that time at 5 after 12?

A. I didn't hear you?

MR. LAUTER: Will you read the question?

(The last question was read.)

A. I just walked up to him immediately and asked him what the trouble was.

Q. And he straightened up?

A. He did.

Q. Now, how far were you from Mike's machine when John Foster told you that he had something the matter?

A. I was in the center of the grinding floor, possibly 50 or 60 feet away.

Q. How long did you have the conversation with John Foster?

A. He came up and says, "There is something wrong with Mike," he says, "you better go and look at him."

Q. Did he tell you what was wrong with Mike?

A. He didn't.

Q. He didn't tell you he was intoxicated?

A. He did not.

Q. What time was it that John Foster spoke to you?

A. Oh, I imagine three minutes after, four minutes after.

Q. Three or four minutes after 12:00?

A. Yes.

Q. Did John Foster say what was the matter?

A. He did not.

Q. He didn't say when he had first seen Mike Ugranovich?

A. He did not.

Q. All he told you was that something was wrong with Mike?

A. That is all.

Q. You went over and told Mike there was something wrong with him?

A. I didn't.

Q. Asked him what was the matter with him?

A. Asked him what was the matter.

Q. How long did that take you, to walk from where you were when you were speaking to John Foster, to walk to where Ugranovich was?

A. Half a minute, I imagine.

Q. Half a minute to walk 50 or 60 feet?

A. Yes, sir.

Q. During that time could you see Mike Ugranovich?

A. I did.

Q. Was he stooping over his machine?

A. He was.

Q. In the same position you have indicated to the Court?

A. He was.

Q. And he was not tottering, is that right?

A. He was not.

Q. When you came away from Mike Ugranovich's machine, where did you go?

A. To get my turn foreman.

Q. And where is your turn foreman located?

A. Well, he doesn't have any set position, or set place. He moves around through all different departments.

Q. How long did it take you to find him?

A. Couple or three minutes.

Q. So that made it about 12:08, is that correct?

A. Yes.

Q. Where did you find him?

A. In the chipping building.

Q. Where?

A. In the chipping building.

Q. Where is that with respect to the place where Mike Ugranovich works?

A. It is in the—located in the same building about approximately 75 foot away.

Q. And when you found Eichelberger did you have a conversation with him?

A. I did.

Q. What did you say to Mr. Eichelberger?

A. I said, "Ike, I have got a man down there that is in no condition to work."

Q. When you said that to Eichelberger, did he say anything to you?

A. He said nothing.

Q. And when you said that to Eichelberger, that he was in no condition to work, referring to Ugranovich as you testified, that he had strong odor of liquor on his breath at that time, is that correct? And that is all you knew about him at that time?

A. I did.

Q. Is that correct?

A. We observed his work.

Q. Wait. When you stood with Mike and asked him

the question, as he was stooped over, he stood up, is that right?

A. Yes.

Q. And you asked him what was the matter?

A. I did.

Q. You walked away, is that correct?

A. I did not. Not immediately.

Q. Well, now, how long did you stay there with Mike?

A. Oh, I couldn't say.

Q. Well, now, you just try and recollect how long?

A. I couldn't say that.

Q. Well, was it a minute or five minutes or ten minutes? Can't you say that?

A. No, I couldn't say that.

Q. Can't you say whether it was twenty minutes or half hour?

A. It wasn't—it was a minute or less.

Q. Well, now, you can say it, is that right?

A. I guess that is right.

Q. You guess that is right? You guess it was a minute or less, is that right?

A. Yes, sir.

Q. Do you think it was about 30 seconds?

A. Possibly.

Q. Possibly 30 seconds? Now, during that 30 seconds did you inspect the nature of the work he was doing?

A. I could see that from where I was standing.

Q. And that took you 30 seconds, in order to see the nature of the work, is that right?

A. Yes, sir.

Q. How he was performing?

A. I didn't see that, his performance. I saw the nature of the work.

Q. You say you couldn't see how he was performing?

A. What?

Q. Did you say you could not see how he was performing his work?

A. Not when I was not standing alongside of him, no.

Q. You stood alongside of him altogether how long? About 30 seconds or a minute, is that right?

A. About 30 seconds.

Q. Is that the sum total of your standing alongside of him?

A. It was.

Q. And during that 30 seconds to a minute you asked him the same question twice, "What is the matter with you?"

A. I asked him once.

Q. Well, I think you asked him once as he was stooping over and then he straightened up and you repeated the question, is that correct?

A. I believe I did.

Q. That is, you asked him the same question twice?

A. I think so.

Q. And all this happened during the 30 seconds to one minute, is that correct?

A. Yes, sir.

Q. At the same time you could not observe how he was performing his work, is that correct?

A. He wasn't working at that time.

Q. He wasn't working?

A. No, not when I talked with him.

Q. For the 30 seconds to a minute?

A. Yes, sir.

Q. Then you walked away, is that correct?

A. I did.

Q. You saw Eichelberger and I think we reached the point where you were walking back with Eichelberger?

A. Yes, sir.

Q. Now, it took you three minutes to find Eichelberger, that made it about 12:08, is that right?

A. I would not say.

Q. Or can't you say? You can't say?

A. It didn't take quite three minutes.

Q. Didn't take three minutes? How long did it take?

A. Possibly two or three minutes, not over that.

Q. Possibly two or three, but not over. You had to look for Eichelberger, is that correct?

A. Yes, in a way.

Q. How many places did you have to look for him?

A. One.

Q. And you found him just where you went to look for him, is that correct?

A. By chance, yes, sir.

Q. And that was where?

A. In the chipper building.

Q. And did you stop there and speak to him?

A. I did.

Q. And what did you say to him?

A. "Ike, I have a man in no condition to work."

Q. Now, that, you say, was about 55 feet away from where Ugranovich was working, is that correct?

A. Yes, sir.

Q. How long did you say it took you to go from Ugranovich to Eichelberger?

A. Oh, I imagine half a minute.

Q. Half a minute? That is about 75 feet?

A. Yes, sir.

Q. Half a minute? Then you stopped with Eichelberger and how long did you stop with Eichelberger to ask him that question?

A. I didn't stop. He was coming, walking my direction, and I turned and walked with him.

Q. Turned and walked with him?

A. Yes, sir.

Q. As you were talking with him, you told him about that?

A. Yes.

Q. That Mike was in no condition to work? You have got a man that is in no condition to work, is that correct?

A. That is right.

Q. And you both started to walk toward Mike, is that correct?

A. Yes, sir.

Q. How long did that take before you got back to Mike?

A. The balance of a minute.

Q. The balance of a minute? How long did that take you, then? What time would you say? Withdraw that. What time would you say it was when you returned to Mike with Eichelberger?

A. Ten or twelve minutes after.

Q. That is, if you spoke to Mike at 12:05, it would be 12:13 or 12:12 or 12:15, is th correct? Somewhere around in there?

A. I couldn't state the exact time.

Q. Well, you did. You said it took how long, approximately? Eight to ten minutes? Or ten to twelve minutes?

A. Took twelve minutes, possibly.

Q. That would be 12:15 to 12:17, is that correct?

A. It would be in the neighborhood of 12:15.

Q. In the neighborhood of 12:15? Now, you are back to the machine, you and Eichelberger, and in conversation with Ugranovich. What was Ugranovich doing at that time?

A. Standing by his machine.

Q. Standing?

A. Yes, sir.

Q. Absolutely straight?

A. I couldn't say that.

Q. Now, you don't remember whether or not he was leaning over or standing up?

A. I can't say positively, no.

Q. You don't recall?

A. I don't recall.

Q. Was he facing towards you and Mr. Eichelberger?

A. I don't recall.

Q. How far away from him were you when you first saw him at the machine, while you were walking back to him?

A. Repeat the question.

(Question read by the Reporter.)

A. I don't understand your question.

Q. Now, I say you were walking with Eichelberger to Mike Ugranovich, right?

A. Yes.

Q. How far were you away from Mike Ugranovich at the time that you saw him?

A. Ten or twelve feet.

Q. Ten or twelve feet? Was there a lot of machinery at the time?

A. There is a lot of machinery, yes.

Q. And that blocks your view, is that correct?

A. Not in my department.

Q. Is there machinery around Mike's machine?

A. There is a narrow gauge track dividing up the grinding bed and the chipping bed.

Q. And is that what obstructed your view until you got ten or twelve feet from Mike?

A. Yes, sir.

Q. So that you had reached a point where you were about ten or twelve feet from Mike Ugranovich, and there was a clear space and you could see Mike Ugranovich?

A. Yes, sir.

Q. And you don't recall whether he was stooping over or standing up straight or facing or not facing you, is that correct?

A. That is correct.

Q. Now, did you have any conversation during the time that you walked back from the point that you turned around and met Eichelberger and the time that you went to Ugranovich's machine, with Eichelberger?

A. None.

Q. No conversation?

A. None, except what I told you.

Q. That is right, Eichelberger said nothing about that?

A. He did not.

Q. And there were no further words on your part?

A. No, sir.

Q. Until you came to within ten or twelve feet of Ugranovich, when you could see him for the first time?

A. Coming back.

Q. And you could then see his face, is that correct?

A. Yes.

Q. Who started the conversation back at Ugranovich's machine?

A. Mr. Eichelberger.

Q. What did Mr. Eichelberger say?

A. He asked him what was the matter.

Q. Now, do you recall at that time whether or not Ugranovich was stooped over or standing up straight?

A. He was standing up straight.

Q. Now, would you say about 30 seconds before that he was still standing up straight?

A. I couldn't say positively.

Q. Or you don't know—What is that?

A. I couldn't say positively.

Q. At the time when he was standing up straight, Eichelberger asked what was the matter, what did Ugranovich say?

A. Nothing.

Q. He said nothing? What did Mr. Eichelberger say?

A. He says, "Don't you know that it is against the

rules to come in, in that shape, to come to work in that condition?"

Q. Now, did Eichelberger know what Ugranovich's condition was?

MR. DAY: I object to that question.

MR. LAUTER: I will withdraw it.

Q. Had you told Eichelberger what Ugranovich's condition was?

A. I told him that he was in no condition to work.

Q. What did you say that Eichelberger said to Ugranovich when he came over to him?

A. He says, "Don't yon know that you should not come to work in that condition?"

Q. You had said nothing at all to Eichelberger about the fact that Ugranovich had a strong odor of liquor on his breath, is that correct?

A. I had not.

Q. So that from anything you had said, Eichelberger didn't know that?

A. Not unless he derived it from my conversation with him.

Q. Will you repeat once more what Eichelberger said to Ugranovich at the machine?

A. He says, "Don't you know you should not come to work in that condition?"

Q. Now what did he say after that, if anything?

A. Who?

Q. Eichelberger.

A. He says, "Come out and see Mr. Hopkins in the morning."

Q. Is that all that Eichelberger said to Ugranovich?

A. As far as I can recollect it is.

Q. Did you say anything to Ugranovich at that time?

A. I did not.

Q. Did Ugranovich say anything to either of you at that time?

A. He did not.

Q. Was there any statement made to him at that time that there was a strong odor of liquor on his breath?

A. I made none.

Q. Do you understand the question? What?

A. I made none.

Q. Did you hear Eichelberger make any?

A. He may have. I didn't hear it.

Q. Well, did you hear?

A. I did not.

Q. How long did you stay there at the machine where Ugranovich was?

A. I couldn't just tell, I couldn't determine the length of it.

Q. Was that a minute or two minutes or five minutes or twenty minutes?

A. Couple or three minutes.

Q. About three minutes?

A. Yes.

Q. About what time would you say it was, now, the time that you were standing there and asking him that question?

A. Between 15 after and 20 after.

Q. Between 12:15 and 12:20? Now, at that point, did you and Mr. Eichelberger turn away, go off from that machine?

A. We did not.

Q. What did you do?

A. We stood back.

Q. Where did you stay?

A. Stood back from the machine.

Q. Did you have a further conversation between you?

A. We did not.

Q. Didn't say a word?

A. Did not.

Q. You said nothing about standing back of the ma-

chine, to him?

A. No, I did not.

Q. What happened, from then on?

A. Mike picked his gloves up and started out the door.

Q. How many gloves did he have?

A. Two.

Q. Did he put them on?

A. He did not.

Q. Do you remember what hand he was carrying them in?

A. I do not.

Q. Do you know what color the gloves were?

A. I do not.

Q. And where did he walk toward?

A. He went out the door, towards the wash house.

Q. You testified a moment ago that there was a clear space there of about ten or twelve feet, is that right?

A. Yes, sir.

Q. Do you know whether—just what the distance is from the edge of this rostrum, the edge right here on the right?

A. Do you mean this desk I am sitting by?

Q. That is right.

A. That is about ten feet or a little over.

Q. What is that?

A. Ten feet or a little over, 10 or 15 feet.

Q. 10 or 15? And how wide? Withdraw that—How long was the open space that Ugranovich had to cover in going toward the door? Was that about ten feet?

A. A little over.

Q. What is that?

A. I misunderstood your question.

MR. DAY: Do you mean to the door or toward the door?

Q. (By Mr. Lauter) To the door and toward the door.

A. Why, about ten feet.

Q. About ten feet?

A. Yes.

Q. Were there any machines on either side of this open space?

A. There was not.

Q. What is that?

A. There was not.

Q. How far—How wide is the space between the machines at that point?

A. You mean these buggies that were on this track?

Q. That is right.

A. There was about two feet.

Q. Two feet?

A. They were set away from the door.

Q. About two feet?

A. Yes, sir.

Q. You mean there was an open space about ten feet long?

A. Yes, sir.

Q. And it had a width of about two feet, is that correct?

A. Well—

Q. Well, that is about the width there on the floor, isn't it?

A. The floor in front of this desk?

Q. Is that correct?

A. That is a little more than two feet.

Q. That is a little more than two feet? There is more space there, that is in front of this desk—Withdraw that. Between the desk here in the room, and the rostrum, there is a little more than two feet, is that correct?

A. A little over, not much.

Q. And the distance, you would say, was about the same distance as now stands, is that correct? Or—

A. What?

Q. The distance, the length of the rostrum?

A. Possibly.

Q. And that is where you saw Mr. Ugranovich walking toward the door?

A. Yes, sir.

Q. Is that where you saw him totter?

A. I did.

Q. What is that?

A. I did.

Q. The first time that you saw him totter was at the point where he started to walk away from his machine for the door, during this open space?

A. Yes, sir.

Q. In this open space?

A. Yes, sir.

Q. Iwant you to step down from the stand. You show me how you saw Mr. Ugranovich walk?

A. Well, he staggered off to one side like this (indicating).

Q. You walked the entire 10 feet—

MR. DAY: Pardon me for walking between.

Q. Just take the seat back on the witness stand.

TRIAL EXAMINER LINDSAY: We will adjourn now until after lunch.

MR. LAUTER: I will finish in a few more questions.

(Recess had.)

Q. (By Mr. Lauter) Now, as you saw Mr. Ugranovich walking through this open space, you saw him tottering, is that correct?

A. I did.

Q. And there were places on both sides that he could have leaned against if he were walking through, is that right?

A. There was not.

Q. Is there any support that he could turn to, in case he fell?

A. There is not.

Q. What was on both sides of this open space?

A. The doorway and buggy.

Q. What?

A. A doorway and narrow gauge buggy.

Q. I see. And he walked through this open space and he was tottering?

A. Yes, sir.

Q. And you saw him totter for about ten feet?

A. Yes, sir.

Q. And you didn't see him after that?

A. I did not.

Q. That is the extent of the tottering you saw him do, is that correct?

A. That is it.

Q. I want you to step down from the stand and walk the ten feet and show me just how he walked?

A. That is pretty hard to describe.

Q. Well, you just try to give us some idea of what you saw?

A. I am afraid I couldn't do it.

Q. You couldn't do it?

A. It is almost hard—it is very hard to do. I don't know that—

Q. You try it.

A. The exact motions.

Q. What is that?

TRIAL EXAMINER LINDSAY: Do the best you can.

Q. Just try, show me how you saw him walk.

A. Like this (indicating).

Q. Is that the way he was walking? Did you say he tottered or wobbled on direct examination? I don't re-

member. Do you recall? You don't make any distinction between wobbling and tottering, do you?

A. I do not.

Q. And you saw him wobble for about ten feet?

A. Yes, sir.

Q. Did he bump against anything, the way you did against the rostrum?

A. Not that I noticed.

Q. You haven't noticed?

A. I didn't notice. There was nothing there to bump against.

Q. I didn't hear you.

A. There was nothing there to bump against.

Q. There was nothing to bump against? So that he didn't walk exactly the way you did here?

A. No.

Q. Because you bumped against the rostrum I noticed, is that correct?

A. That is right.

Q. How many times before that, had you spoken to Ugranovich about liquor on his breath?

A. Several times.

Q. How many would you say?

A. At least twice.

Q. How many more than twice?

A. That is all that I can say.

Q. Did you say on direct examination once or twice?

A. Once or twice.

Q. Once or twice? Not more than twice, is that correct?

A. Not more than twice.

Q. Well, when you said a moment ago at least twice, now you say no more than twice, which do you mean?

A. Not more than twice.

Q. You mean not more than twice?

A. No.

Q. Probably once or twice?

A. Once or twice.

Q. I want you to describe the other occasions when you spoke to him. About how long prior to February 8th did you speak to Ugranovich for the first time about the fact that his breath smelled of liquor?

A. I couldn't say.

Q. Well, now, was it a month or a week or a year?

A. I couldn't say.

Q. You don't remember whether it was a year?

A. I couldn't say.

Q. Or a month or a week?

A. I couldn't say.

Q. Do you remember the second time you spoke to him about liquor on his breath?

A. I do not.

Q. You don't remember whether that was a month or a week or a year before February 8th?

A. I do not.

Q. Do you remember whether you ever had spoken to him about it?

A. I do.

Q. You are sure about it?

A. I am.

Q. Do you remember the circumstances under which you spoke to him?

A. I do not.

Q. You don't remember when it was or what you said or what he had said?

A. It was in the grinding department.

Q. In the same department?

A. Yes, sir.

Q. Do you remember what you said?

A. I told him, I said, "Mike, you will have to watch your drinking, or you will get in trouble."

Q. And you don't remember whether that was a week or month or year or—

A. I do not.

Q. Either the first or the second time?

A. I do not.

Q. Did you ever lay him off for being drunk or did you suggest to any turn foreman that he be laid off?

A. I have not the power to lay the men off.

Q. Did you suggest to anyone that he be laid off on those two previous occasions?

A. I did not.

Q. Did you mention that fact to anyone else except Mike Ugranovich, the two previous occasions when he had liquor on his breath?

MR. KETTERER: When was that time?

MR. LAUTER: Well, the witness can't say whether it was a week or a month or a year before.

MR. KETTERER: The question is not clear.

MR. LAUTER: I will withdraw the question.

Q. On the two occasions prior to February 8th you testified you spoke to Mike Ugranovich about his having liquor on his breath?

A. I did.

Q. I am now asking you whether or not you ever spoke to any other foreman or any other person about those two previous occasions?

A. Do you mean prior to Mike's—

Q. Prior to February 8th.

A. I did not.

Q. You didn't tell anyone about it?

A. I did not.

Q. Isn't the reason for that, that in the mill very often it happens that men come to work with liquor on their breath?

A. It is.

Q. And you don't lay them off?

A. I don't have the power.

Q. And you don't recommend that they be laid off?

A. I can, yes.

Q. But you didn't, in Mike Ugranovich's case?

A. I did, to Mr. Eichelberger after—

Q. I am referring to the two previous cases, you didn't say anything?

A. No, sir.

Q. To Mr. Eichelberger about those? Have you ever come to the mill yourself with liquor on your breath?

A. On certain occasions.

Q. Did you ever come into the mill wobbling?

A. No, sir.

Q. Did the turn foreman ever complain to you about the fact of liquor on your breath?

A. No, sir.

Q. And you were never discharged or laid off for the reason?

A. No, sir.

Q. Now, a good many men come into the mill in the same condition that you have come into it, don't they?

A. I presume so.

Q. Now, have you reported employees at the plant every time for wobbling?

A. When so instructed to do so, yes, sir.

Q. Well, now, wait.

TRIAL EXAMINER LINDSAY: Answer the question, please.

Q. As a matter of fact, aren't there occasions when you do and sometimes you don't?

A. No, sir.

Q. Have you in every case reported a man whom you saw wobbling in the mill?

A. Yes, sir.

Q. Every case?

A. Yes, sir.

Q. Now, how many men have you seen wobbling in the mill?

A. He was the only one I ever had.

Q. You never saw another man wobbling in the mill?

A. No, sir.

Q. Is that correct?

A. Yes, sir.

Q. Now, how many other men have you come across in the mill with that condition of liquor on their breath?

A. I can't say.

Q. Hundreds, is that right?

A. Not that—in that length of time, perhaps.

Q. Now, out of these hundreds whom you have come across the mill with liquor on their breath, are you now stating for the record that not one single one of those was wobbling?

A. Not to my knowledge.

Q. Did you come close enough to tell that they had liquor on their breath?

A. Yes, sir.

Q. But you could not observe whether they were wobbling?

A. I could not.

Q. What are the instructions in the mill with respect to wobbling?

A. What is that question?

MR. LAUTER: I will withdraw that.

Q. Are there any instructions in the mill with respect to wobbling?

A. There are.

Q. Now, you told me what the instructions are.

A. If a man comes in in that condition—

Q. No. You tell me what the instructions are. Are you telling me?

A. Yes.

MR. LAUTER: Then I will withdraw that.

Q. Are those instructions printed?

A. No, sir.

Q. From whom did you get those instructions?

A. From the department head.

Q. From whom did you get those instructions with respect to wobbling?

A. From the turn foreman.

Q. What is his name?

A. I can't tell you at the present time.

Q. From whom did you get your instructions with respect to wobbling?

A. I can't tell you.

Q. What is that?

A. I can't tell you right now.

Q. Did you ever get any instructions with respect to wobbling?

A. I did.

Q. How long ago?

A. When I first took over the job.

Q. When you first what?

A. When I first took over the job.

Q. Which job?

A. The grinding boss.

Q. Didn't you get any instructions when you were a chipper foreman about wobbling?

A. That was after.

Q. What is that?

A. That was after I was a grinding foreman.

Q. You are a chipper foreman now and you were a grinding foreman before?

A. Yes, sir.

Q. How long were you a grinder foreman?

A. Two years or a little longer.

Q. When did you start to be a foreman? When did you become a foreman? That is, a grinder foreman?

A. I just can't tell you the exact date.

Q. Give me the year. I know you are not good on dates. What year was it?

A. '34—either '34 or '35.

Q. You aren't sure of the year?

A. No, sir.

Q. '34 or '35?

A. Yes, sir.

Q. You became a grinder foreman then?

A. Yes, sir.

Q. Was it at that time that you got instructions about wobbling?

A. Yes, sir.

Q. Who gave you instructions?

A. Mr. Hopkins.

Q. Now, you received certain instructions?

A. At that time.

Q. From Mr. Hopkins, the superintendent?

A. Yes, sir.

Q. He gave you instructions about wobbling?

A. Yes, sir.

Q. Do you know whether he gave any other foreman any instructions about wobbling?

A. I don't.

Q. At the time you received your instructions on wobbling, were all the foremen called together?

A. They were not.

Q. You got personal instructions from Mr. Hopkins, the superintendent, on the subject of wobbling?

A. Yes, sir.

Q. Now, you tell me what he told you.

A. I can't tell you the exact words.

Q. Give it to me in substance.

A. Well, he says if a man comes out in an intoxicated condition, he is to go home.

Q. Is that all he said?

A. Yes, sir.

Q. Is that all?

A. The substance.

Q. You tell me in substance everything he said.

A. Yes.

Q. Is that in substance everything he said?

A. Yes.

Q. When a man comes to work in an intoxicated condition he is to be sent home?

A. Yes, sir.

Q. Did he say anything about this charge to you?

A. He didn't.

Q. Did he say anything about wobbling?

A. What?

Q. Did he say anything about wobbling?

A. He didn't.

Q. All he told you was that if a man comes in in an intoxicated condition, he is to be sent home?

A. Yes, sir.

Q. Now, was any other standard set to you by Mr. Hopkins?

A. I don't know of any.

Q. Now, who made the distinction between liquor on a man's breath and wobbling? You, yourself?

A. That is, our own distinction.

Q. That is your own distinction?

A. Yes.

Q. That is your distinction with respect to intoxication?

A. Yes, sir.

Q. You didn't consider liquor on a man's breath intoxication, is that correct?

A. No, not if it isn't too strong.

Q. What is that?

A. Not if it isn't too strong.

Q. You set your own standards when it is weak and when it is strong?

A. Yes.

Q. And when you decide it is a little bit strong you send him home?

A. Yes.

Q. And when you decide that it is a wobbling condition, that falls under the heading of a dissertation on wobbling, doesn't it?

A. Yes, sir.

Q. How long did you speak to Hopkins on wobbling?

A. I can't recall.

Q. Five minutes or 10 minutes or a half an hour?

A. I can't tell you.

Q. You don't know?

A. No.

Q. Now, after you got your instructions from Superintendent Hopkins, did you ever advise the men about his edict?

A. I didn't.

Q. What is that?

A. I didn't.

Q. You didn't tell them that you considered intoxication wobbling or about their having liquor on their breath?

A. I didn't.

Q. You told them nothing about it?

A. I didn't.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: We will adjourn until 1:30.

(Thereupon, a recess was taken until 1:30 o'clock p. m.)

AFTER RECESS

(Whereupon, at 1:30 o'clock p. m., the hearing was resumed and the following proceedings were had):

TRIAL EXAMINER LINDSAY: The hearing is called to order.

MR. SMITH: Your Honor, I have the original card.

(Discussion off the record.)

MR. SMITH: Shall I go forward, Mr. Lauter?

MR. LAUTER: Just a moment.

MR. SMITH: Yes.

MAURICE A. ADHEMAR

a witness heretofore duly sworn, resumed the stand and testified further as follows:

MR. SMITH: Will you mark this Respondent's Exhibit 41 for identification?

(Thereupon the document above referred to was marked Respondent's Exhibit 41 for identification.)

Direct Examination

Q. (By Mr. Smith) I show you a card that has been marked for identification as Respondent's Exhibit 41 and ask you what that card is.

A. That is the employment record of Charles Neverdusky.

Q. Where did you get that?

A. From our office in Youngstown.

Q. From your office in Youngstown?

A. Yes, sir.

Q. Is that the original card covering his employment?

A. That is the original.

Q. Now, I desire—that is the original, you say?

A. Yes, sir.

MR. SMITH: I desire to introduce the original card with the request that we be permitted to substitute a photostatic copy of this card in the record in the place of the original card so that we can have it back.

MR. LAUTER: I have no objection to the grant-

ing of the motion as to the substituting of a photostatic copy.

Q. Now—

TRIAL EXAMINER LINDSAY: That is, provided I do receive it in evidence.

MR. SMITH: That is, I was offering it.

MR. LAUTER: I have no objection.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit 41 is received in evidence.

(Thereupon the document heretofore marked "Respondent's Exhibit 41" was received in evidence.)

Q. I call your attention, Mr. Adhemar, to the reverse side of Respondent's Exhibit 41 to the second line—the typewritten line there at the end. There is in typewriting: "Wrong Number." What does that mean?

A. The wrong number.

Q. Does that line in any way affect the service record of Charles Neverdusky?

A. No.

Q. Now, looking at this, the first line refers to o. h., masonry, employee No. 7687, position, helper, 3-9-36 to 5-20-37. Now, what does that line mean?

A. It means that the man has been hired in the open hearth masonry department as a mason helper and his service is started on 3-9-36.

Q. What does the 5-20-37 refer to?

A. That is when the man left that department.

TRIAL EXAMINER LINDSAY: May I ask what man you are referring to?

MR. SMITH: Charles Neverdusky. I was asking him in regard to the record.

Q. Now, taking the third line which says: "B. L. Shipp, No. 19206, position, helper, 5-20-37, 7-27-37, and the typewritten word at the end of that line: Cancelled." Now, just explain that to the Court.

A. It means that that man started at the button lamp

shipping department under that number, 19206, as a helper on 5-20-37.

Q. And what does 7-27-37 mean?

A. It means that he was cancelled from that department on 7-27-37.

Q. Now, that is his record?

A. Yes.

MR. SMITH: Now, I would like to have marked for identification Respondent's Exhibit No. 42. I have already shown it to Mr. Lauter. I will show it to your Honor.

(Thereupon the document above referred to was marked Respondent's Exhibit No. 42 for identification.)

Q. Now, I show you a letter dated July 22nd, 1937, addressed to E. R. Rose which has been marked for identification as Respondent's Exhibit No. 42 and ask you what that letter is?

A. It is a letter to take these men from the payroll; these particular men from the payroll.

Q. There are other names on it that have no reference to him, is that correct?

A. That is right.

MR. SMITH: Now, your Honor, I desire to offer in evidence this letter, Respondent's Exhibit No. 42 for identification, in connection with the testimony of Mr. Adhemar as to Charles Neverdusky.

MR. LAUTER: I have no objection to the admission of Respondent's Exhibit No. 42 for identification consisting of a two-page letter containing some typewritten matter on it.

MR. SMITH: I would like leave to substitute a copy for the original.

MR. LAUTER: I have no objection to the substitution of a photostatic copy.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 42 is received in evidence for the purpose alone as stated by counsel representing the Respondent. The photostatic copy may be substituted to take the place of the original and shall be numbered 42.

(Thereupon the document heretofore marked "Respondent's Exhibit No. 42" was received in evidence.)

Q. I believe you testified this morning, Mr. Adhemar, as to where you found this card? What file you found it in? Am I correct on that?

A. When?

Q. When you were requested—a request came in from my office asking you to check up on the status of the records in your office of Charles Neverdusky.

A. In the inactive file.

Q. The inactive file?

A. That is correct.

MR. SMITH: You may cross-examine.

Cross Examination

Q. (By Mr. Lauter) You are the assistant to Mr. Rose, employment manager?

A. Yes, sir.

Q. How long have you been assistant?

A. About a year.

Q. Now, you gave testimony concerning an active and inactive file. Will you explain what you mean by an active and inactive file in an employment office?

A. The active files are the men who are working in the plant at the present, and the inactive file are men who are not in our plant, but had been there previously or prior.

Q. Now, you testified about the transfer of certain names from the active to the inactive file, is that correct?

A. That is right?

Q. Can you tell me when the transfer of names or persons who were out on strike from the active to the inactive list took place?

A. No.

Q. Well, tell me approximately when it took place?

A. Oh, I couldn't tell you that.

Q. What month?

A. (Witness shakes head.)

Q. Let's see if I can't help you. I show you Respondent's Exhibit No. 42 and ask you to examine it and tell me whether or not that refreshes your recollection as to the date on which certain names were transferred from the active to the inactive list?

A. That is right.

Q. It does refresh your recollection?

A. It does, the date they were transferred.

Q. What is the date on which certain names, the names of persons who were out on strike, were transferred from the active to the inactive list?

MR. DAY: Do you mean those that were on that list?

Q. That is right, those are certain persons?

A. Not to be exact, but about the 27th of July.

Q. Now, do you know the circumstances surrounding the transfer of those names from the active to the inactive list?

A. No.

Q. You were assisting Mr. Rose, is that correct?

A. That is right.

Q. You know what an active list and what an inactive list is?

A. Yes.

Q. You know that a strike was called on May 26?

A. Yes.

Q. You know that strike is still on? It has not been called off? Do you know that?

A. Yes.

Q. Do you know that certain men who are out on strike were, on one day, on the active list?

A. Yes.

Q. That subsequently those same men were placed on the inactive list?

A. Yes.

Q. Now, were these men placed on that inactive list on the same day, with respect to all of the strikers who hadn't come back, or were they put on inactive lists on different days?

A. Most of them were put—If I can remember, on the same date.

Q. Now, that is about July 27th?

A. That is right.

Q. Let me be sure that I understand you. There were men out on strike that hadn't applied for reinstatement?

A. I don't know whether they were out on strike or not, but they were—I was ordered to take them out of the active file.

Q. You were ordered to take them out of the active file, and that was a considerable number of employees?

A. It was. I don't know how many.

Q. You don't know each one of them, naturally?

A. No, that is right.

Q. You work in the employment office, and you know those were men who were out on strike?

A. I don't.

Q. You don't know in a general way that there was a considerable number of men that you transferred from active to inactive file?

A. No.

Q. And men that were out on strike?

A. No, I don't know that.

Q. What were you told? That they were?

A. I wasn't told.

Q. What explanation was made to you at the time you were transferring them from the active to the inactive file?

A. There was no explanation made.

Q. What is that?

A. There was no explanation. I took them out on an order from the superintendents.

Q. Whose order was that?

A. The superintendent heads.

Q. Superintendent heads?

A. That is right.

Q. Did you have personal communication with them?

A. No, a letter form or termination.

Q. When you say "letter form" you mean a letter similar to Respondent's Exhibit 42?

A. Yes.

Q. On which appears the name of Charles Neverdusky?

A. Yes.

Q. Do you know whether or not he is a striker?

A. I couldn't tell you that.

Q. Had you ever before received instructions to drop such a considerable—or transfer any such a considerable number of men from an active to an inactive list?

A. Yes.

Q. When was that?

A. Oh, I couldn't tell you. I couldn't recall it.

Q. Now, you tell me how many men you received orders to transfer from active to inactive list?

A. I don't remember the number.

Q. Well, give me your general approximation?

A. Oh, I couldn't. That is a matter of form. I took out as many as I had on my lists. I didn't stop to tabulate.

Q. I am asking you how many you had on the list?

A. I don't know. —

Q. Did you have 500 or 600 or 1,000?

A. I didn't count them.

Q. Give me your approximation? 10,000?

A. I can't tell you even approximately.

Q. How many employees are there in the Youngstown plant?

A. Now?

Q. How many were there on May 26th or May 25th?

A. We had 8600 men, a little over, on the payroll.

Q. What is that?

A. We had a little over 8600 on the payroll.

Q. And when did you start making the transfer from the active to the inactive list? Sometime in July, end of July?

A. I do that all the time.

Q. I am asking you whether these considerable number of transfers from active to inactive lists about which you understand I am referring, was made sometime at the end of July?

A. I did drop—or put in the inactive file a considerable number on the 27th.

Q. And you say you can't approximate it, is that correct?

A. No, I can't.

Q. Now, there were only 8600 employees on May 25th, is that correct?

A. There were, yes.

Q. How many are there now? Do you know how many there are now?

A. Approximately over—a little over 8200.

Q. Now, how many men have you placed on the inactive list?

A. I couldn't tell you.

Q. Did you place 400?

A. I don't know how it stands now.

Q. You would say less than 10,000?

A. Less than 10,000.

Q. Would you say less than 5,000?
A. Yes.
Q. Less than 1,000?
A. Yes.
Q. Less than 500?
A. No.
Q. Would you say somewhere between 500 and 1,000?
A. I would not say, I am not sure.
Q. Well, I am only asking you for your approximation. It is less than 1,000? You agree to that?
A. Yes.
Q. But it is not less than 500?
A. Yes.
Q. Therefore it must be somewhere between 500 and 1,000?
A. Somewhere.
Q. When, before, during the time that you were an assistant to Mr. Rose, have you ever placed at approximately the same time 500 to 1,000 men on the inactive list?

MR. SMITH: Now, just a minute, I want to object, please. He has not said that any one time he did that.

TRIAL EXAMINER LINDSAY: Well, he is asking him now. The objection is overruled. Let the record show an exception.

A. May I have the question again, please?
Q. Sure.

(Last question read by the Reporter.)

A. I understand before I was assistant to Mr. Rose?
Q. When, before you were assistant?
A. When? I don't remember it.
Q. You never have, have you?
A. I have put men in the inactive file, but I don't know how many.
Q. Don't you know that you never have put between 500 and 1,000 men at approximately the same time in the

inactive list? When you are thinking, if you can't remember, we may subpoena the records to help your recollection.

A. That is right.

Q. What is that?

A. Not that many.

Q. Not that many, is that correct?

A. Not that many, that is correct. At one time.

Q. When did you start to put them on the inactive list? Come as close as you can to the exact date.

A. Again?

(The last question read by the Reporter.)

A. Well, the 27th is the date we tried to.

MR. SMITH: I didn't get that answer.

(The last answer was read.)

A. To work according to our list we were getting from the superintendent.

Q. You mean you tried to finish them up?

A. Yes.

Q. In that one day, that is July 27th?

A. Yes.

Q. When did you start receiving letters from the superintendent heads?

A. Well, I didn't stop receiving, I get letters now. Not with lots of men. Maybe one man or two men at the same time.

Q. Do you understand my question? I asked you when you started to receive the letters?

A. When we started?

Q. Of the character we are discussing?

A. Well, as far as I know, around the 20th and 22nd, I don't remember that date, exact date.

Q. Respondent's Exhibit 42 is dated July 22nd?

A. That is right.

Q. So that about that time, that you started to receive—

A. About that time, yes.

Q. Let me finish my question. That you started to receive letters from superintendents?

A. Yes.

Q. Now, about how many different superintendents sent in letters, do you know?

A. I can't tell you how many.

Q. Well, approximately?

A. About 7.

Q. About 7 superintendents? And did they all send in what you refer to as a form letter? I think you referred to this as a turn foreman?

A. Yes.

Q. This form letter was sent in by seven different superintendents on or about July 22nd, is that correct?

A. Yes.

Q. That is, form letters similar to Respondent's Exhibit 42, and they in turn contained a list of names?

A. Yes.

Q. Filled in on this form which you received marked as Respondent's Exhibit 42? And they contained somewhere between 500 and 1,000 names, is that correct?

A. I don't know whether that many.

Q. Well, isn't that the number you referred to before?

A. I don't know whether the letters contained that many names.

Q. Do you think they contain more or less?

A. Less.

Q. You think that you transferred more or less, from the active to the inactive list, than were in the letters?

A. Because I got termination notices.

Q. No, just answer my question, whether you think you did.

A. Well, not that many as you refer to, on form letters.

Q. I see. Now, let's get this straight. Did you trans-

fer more names from the active to the inactive list than appeared in the letters from the superintendents, or less names? Understand my question?

A. Repeat the question.

Q. (The question was read by the Reporter.)

A. More.

Q. That is, you transferred more names from the active to the inactive list, than appeared on the letters from the superintendents?

A. Yes.

Q. Now, you transferred between 500 and 1000 names from the active to the inactive list, is that correct?

A. Yes.

Q. Have you any idea how many list names appear on the superintendent's letters?

A. I have no—

Q. A hundred or 200?

A. I can't tell you that now.

Q. Well, I am not trying to pin you down to exact numbers. I am trying to get from you a statement of the exact numbers. I am not trying to trap you.

A. I can't remember because I got termination notices from time to time.

Q. Yes.

A. From certain number of men and I don't remember how many.

Q. That is, generally with respect to one or two or three, is that correct, the number of men?

A. Yes.

Q. And if you received 400 or 200 termination notices you would remember?

A. Yes, in a bunch like that, I would.

Q. At the time you were transferring 500 of those men from the active to the inactive list you would not receive such a great number of termination notices?

A. That is correct.

Q. Now, are you stating for the record that you don't know that the transfers that you made to the inactive list were of men that were out on strike?

A. That is right. I don't know.

Q. No one told you they were strikers?

A. No.

Q. What?

A. No.

Q. You made no inquiries about those men?

A. No.

Q. You have never spoken to the superintendents about any of those men?

A. No.

Q. Not a single one?

A. No.

Q. Not even about Charles Neverdusky?

A. I don't know Charles Neverdusky.

Q. I say, you never spoke to the superintendent concerning the transfer from the active to the inactive list of any person?

A. No.

Q. And you don't know they were strikers?

A. No.

Q. Did you personally prepare Respondent's Exhibit No. 41?

A. May I see it?

(Mr. Lauter hands a card to the witness.)

A. This is the original card and I didn't start the card.

Q. What notice have you made on that card?

A. I have made entries from the 20th of May, on that date.

Q. Yes.

A. And on.

Q. From the 20th of May, 1937?

A. That is right.

Q. Now, there are three entries on the reverse side of the card.

A. Yes.

Q. Did you make the first?

A. I didn't—

Q. The top one?

A. No, I didn't.

Q. Did you make the second?

A. Yes, and the last half.

Q. You say you made part of the first?

A. The last half of it.

Q. When you say the last half, you mean the penciled correction on the typewritten part?

A. Yes.

Q. When did you change the 6 to a 7?

A. I don't know.

Q. Can you give me any idea?

A. I don't know. I found the number was wrong on the man and I checked up on it at the time office and I found it was wrong.

Q. Was it a week ago or a year ago?

A. When I found that number and changed it, I think it was on May 20th, 1937.

Q. On that date?

A. Yes.

Q. May 20th?

A. Yes.

Q. Now, the third entry is the entry that you made on the reverse of Respondent's Exhibit No. 41?

A. Yes.

Q. That is a promotion as far as you know from a helper in the open hearth masonry to a helper in the b. l. shop, is that correct?

A. Yes, sir.

Q. Do you know whether or not there are any men in the active file who are now not working in the plant?

A. No, I can't tell you that.

Q. What is that?

A. I don't know that.

Q. You don't know whether they are or not working or you don't know what the circumstances are surrounding it?

A. That is right. I don't know the circumstances.

Q. How long does a man's active card remain on file until he is out on leave?

A. Until I got an order to put it in the inactive file.

Q. Did you put the inactive file—did you put him on the inactive file when he was transferred?

A. No.

Q. Do you put him on the inactive file when he is on vacation?

A. No.

Q. Do you put him on the inactive file when he is away from the job for more than 30 days?

A. No.

Q. Do you put him on the inactive file when his services are terminated?

A. By the superintendent, yes.

MR. LAUTER: That is all.

MR. SMITH: That is all.

(Witness excused.)

TRIAL EXAMINER LINDSAY: That concludes your testimony as far as Youngstown is concerned?

MR. DAY: That is, with the right to put in those figures of the offer to prove, that concludes our testimony on Youngstown.

TRIAL EXAMINER LINDSAY: Respondent's Exhibit No. 36 of which I reserved ruling, and there is an objection to the admissibility, to Respondent's Exhibit No. 36, that objection is sustained to the admis-

sibility of Respondent's Exhibit No. 36. Let the record show an exception.

MR. SMITH: Exception.

CHARLES EICHELBERGER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Charles Eichelberger.

Q. Where do you live, Mr. Eichelberger?

A. Canton, Ohio.

Q. By whom are you employed at the present time?

A. Republic Steel Corporation.

Q. How long have you worked for the Republic Steel Corporation or its preceding companies?

A. Over 12 years.

Q. In what capacity do you work for them at the present time?

A. Turn foreman.

Q. In what department?

A. 35 billet shed.

Q. How long have you worked as a turn foreman in the Republic Steel Corporation or its predecessors?

A. About a year.

Q. Mr. Eichelberger, I will ask you to state whether or not you were acquainted with an employee in your department whose name is Mike Ugranovich?

A. Yes, sir.

Q. Do you know where he worked?

A. He worked as a grinder in the grinding department.

Q. And is the grinding department under your jurisdiction as a turn foreman?

A. Yes, sir.

Q. Just tell us how this operation of grinding is performed by the men in the grinding department.

A. We have a wheel that runs on a trolley and it has two handles that comes out over the wheel. The man stands in between the two handles and grinds horizontally of the steel, taking the surface of the steel and removing the defect from it.

Q. Now, what if anything, does he have in his hands when he is operating the grinding wheel?

A. He has two handles in his hands.

Q. Now, how long, if you recall, did Mr. Ugranovich work in that department?

A. I can't say.

Q. Was he there when you became turn foreman in that department?

A. Yes, sir.

Q. Now, going to February, 1937, do you recall the occasion that he was laid off?

A. Yes, sir.

Q. When was the first time that anybody said anything to you about Ugranovich in February, 1937?

A. On the 12 to 8 turn.

Q. On what day?

A. On February 8th.

Q. Do you recall who it was that spoke to you concerning Ugranovich?

A. The grinder foreman.

Q. Who was that?

A. Eugene George.

Q. Was he the man that testified here this morning?

A. Yes, sir.

Q. Now, what if anything did Eugene George say to

you that night on February 8th, 1937, concerning Ugranovich?

A. He told me he had a man working up in the grinding department that was under—was in no condition to work.

Q. Where was that when he made that statement to you?

A. In the chipping department.

Q. How far is that from the billet shed where the grinding operation was being conducted?

A. Approximately 75 feet.

Q. What if anything did you do there?

A. I went with him to the grinding department.

Q. Did you see Ugranovich there?

A. Yes, sir.

Q. Where was he when you came up?

A. He was standing at his wheel.

Q. Now, did you have any conversation with Ugranovich there that night?

A. Yes, sir.

Q. Tell us as nearly as you can what was said by you and Ugranovich if he said anything on that occasion.

A. I told him he was in no condition to work and he was to go home and report to the superintendent, Mr. Hopkins, tomorrow morning.

Q. Now, what did you observe about his person when you came up there, if anything?

MR. DAY: Might I interrupt for just a minute?

(Discussion off the record.)

MR. KETTERER: Will you read the last question?

(The last question was read.)

A. I observed that he was apparently under the influence of liquor.

Q. Did you make any observation about the work that he was doing? The metal upon which he was working?

A. Yes, sir.

Q. Describe that, if you will, please.

A. The wheel he had been grinding—he had been grinding on a wheel in a circular movement over the steel.

Q. What is the proper method of doing grinding on steel of that kind?

A. Straight horizontal grinding.

Q. Did he say anything to you when you told him he was to go home?

A. No, sir.

Q. What, if anything, did he do after you gave him those instructions?

A. Picked up his gloves and started for the door.

Q. Did you observe how he walked as he went from where you were standing toward the door?

A. Yes, sir.

Q. Describe that. His walk.

A. He walked in an uncertain condition.

Q. Now, after Ugranovich left there, did you have any further talk with Mr. George about him?

A. Yes, sir.

Q. What was said by George or by you?

A. I can't state the exact words.

Q. Well, as nearly as you can recall. You don't have to give the exact words.

A. He told me he had been laying off from one to two days, possibly every pay day. He had come in there with liquor on his breath and he had cautioned him about coming to work in that condition.

Q. Did he say anything about how many times he had warned him or cautioned him?

A. Yes, he told him once or twice.

Q. Now, I will ask you to state if he made a recommendation of any kind to you that night.

A. Yes, he did.

Q. What, if anything, did he say on that score?

A. He suggested he be laid off.

Q. Now, did you talk with anybody else about Ugranovich at a later date?

A. Yes, sir.

Q. With whom did you talk?

A. With the superintendent of the department.

Q. Who is that?

A. Mr. Hopkins.

Q. Will you relate the conversation that you had with Mr. Hopkins? First, tell us when that took place.

A. I can't say just where or word for word.

Q. Well, substantially what you said, as nearly as you can recall?

A. Well, it was possibly about 8:05 in the morning of the 8th. I met him in his office and told him that I had sent a man home, that he was in an intoxicated condition, seemed to be under the influence of liquor, and I told him to report to him in the morning.

Q. (By Mr. Ketterer) Did you say anything else that you can recall?

A. I suggested that it would be better for the department that he be laid off as his foreman had reported this to me—made that suggestion and I in turn also made the suggestion.

Q. Was anything else said that you can recall?

A. No, sir.

Q. Were you present on the following morning at 9 o'clock?

A. No, sir.

Q. Or approximately then, when Ugranovich talked with Hopkins?

A. No, sir.

Q. I will ask you to state, Mr. Eichelberger, whether, as a turn foreman, you had the authority to hire or discharge employees?

A. I do not.

Q. And what is the extent of your authority in respect to the employees in your department?

A. I have to use my jurisdiction when they come in, and they are under the influence of liquor, that is to send them home and report to the superintendent of the department.

MR. KETTERER: You may cross examine.

Cross Examination

Q. (By Mr. Lauter) What is Mr. Eugene George's position?

A. Sir?

Q. What is his position in the mill?

A. Turn foreman.

Q. What is your position?

A. Mine is turn foreman. His is grinder foreman.

Q. He is grinder foreman?

A. Yes, sir.

Q. And is he working under you?

A. Yes, sir.

Q. Who is John Foster?

A. He is an inspector in the inspection department.

Q. What time did Mr. Eugene George speak to you about Ugranovich?

A. Shortly after midnight.

Q. Fix the time as best you can.

A. Approximately between 10 and 15 after 12:00.

Q. About 12:10 or 12:15? And where did Mr. George speak to you about Ugranovich?

A. In the billet shed.

Q. How far is the billet shed from the place where Ugranovich worked?

A. Possibly 75 feet.

Q. How long did you speak to George about Ugranovich at that time?

A. I talked to him while I was walking.

Q. And what did he say to you?

A. He told me he had a man down there under—in an uncondition to work.

Q. In what?

A. In an unsatisfactory condition to work.

Q. Give me his—

A. In no condition to work.

Q. Have you got it straight, now?

A. Yes, sir.

Q. You didn't have it straight on direct?

A. I didn't have it straight.

Q. Do you remember what you started to say?

A. Yes.

Q. What did you start to say?

A. He said that he was in an unsatisfactory condition to work.

Q. What did you start to say on direct examination?

A. On direct examination I stated that he was under no condition to work.

Q. Didn't you start to say something else?

A. No.

Q. Are you sure?

A. Not to my knowledge.

Q. What is that?

A. Not to my knowledge.

MR. LAUTER: Turn back to the direct examination.

(Thereupon the direct testimony from page 5325 was read by the Reporter.)

Q. (By Mr. Lauter) Now, wait. "That was under," —Did you start to say something else there?

A. No, sir.

Q. "That was under—" Did you get that far?

A. Read that again.

(Record read by the Reporter.)

"A. He told me he had a man working out in the grinding department that was under—")

Q. (By Mr. Lauter) Didn't you say that?

A. I don't recall saying that.

Q. You don't recall saying that? You think that the transcript is incorrect?

A Yes.

Q. Didn't he say something about his being under the influence of liquor?

A. No, sir.

Q. He didn't say that?

A. No, sir.

Q. You are sure he didn't?

A. Yes, sir.

Q. And if it is in the record here now, that is a mistake?

MR. KETTERER: I object. That is not in the record.

A. It is not in the record.

MR. KETTERER: The word "under" is.

MR. LAUTER: I mean the word "under" of course.

Q. (By Mr. Lauter) You were about 75 feet—

TRIAL EXAMINER LINDSAY: Just a minute. The objection now is cleared up and withdrawn?

MR. KETTERER: That is all right.

MR. LAUTER: Well, I intend the record to show that my remarks in the record were "under."

Q. Now, you were in the billet shed, is that right?

A. Yes.

Q. At the time that George came up and spoke to you, as you were walking towards the place where Ugranovich was working, is that correct?

A. Yes, sir.

Q. About how far were you from where Ugranovich was working at the time you met George?

A. About 75 feet.

Q. About 75 feet? And all that Eugene George said at that time was there was a man who was in no condition to work?

A. Yes, sir.

Q. Did you say anything to George?

A. No, sir.

Q. Did he tell you who it was that was in no condition to work?

A. No, sir.

Q. Did you go to Ugranovich with George at that time?

A. Yes, sir.

Q. Were you walking together as you were going to Ugranovich?

A. I don't remember.

Q. You don't remember whether you were walking together or what happened?

A. No, sir.

Q. Well, you did walk to get to Ugranovich, didn't you?

A. Yes, sir.

Q. And you don't remember whether you were in front of George or whether he was in back of you?

A. I don't remember.

Q. Or whether he was at your side, is that correct?

A. Yes, sir.

Q. You don't remember whether or not he told you that it was Ugranovich that was in no condition to work?

A. He didn't tell me.

Q. He didn't tell you who it was?

A. No.

Q. Well, did he leave you to Ugranovich?

A. Yes, sir.

Q. When you got to Ugranovich you saw him working there?

A. Yes, sir.

Q. Now, you heard the testimony of Mr. George, didn't you?

A. Yes, sir.

Q. You heard him testify about this open space directly in front of where Ugranovich works?

A. Yes, sir.

Q. Is that correct? And that is as he has stated, about ten feet, is that correct?

A. Yes, sir.

Q. And on both sides there is something, and there is a passageway of about two feet?

A. Yes.

Q. In fact, you listened to all of the testimony that was given by George, is that correct? You were here and present while George testified this morning?

A. Yes.

Q. And everything he said is correct, is it?

A. Yes, sir.

Q. When did you first notice Ugranovich working on the machine?

A. He wasn't working when I saw him.

Q. What posture was he in?

A. Sir?

Q. What was his position at the machine?

A. He was standing by his wheel.

Q. Standing by the wheel?

A. Yes, sir.

Q. Was he standing up straight or was he stooping over?

A. Yes, sir.

Q. What is that?

A. Standing straight.

Q. Were his hands on the controls?

A. No, sir.

Q. Were his hands at his side?

A. I couldn't say.

Q. You don't remember?

A. I don't remember.

Q. Was he wobbling?

A. Yes, sir.

Q. At the time that you saw him standing at the machine, you are stating to the record that he was wobbling?

A. Yes, sir.

Q. Now, are you sure about that?

A. Yes, sir.

Q. And you went along with Mr. George at the time that you were approaching Mr. Ugranovich working at the machine, is that correct?

A. Yes, sir.

Q. Did you hear him testify this morning?

A. Sir?

Q. Did you hear Mr. George testify this morning?

A. Yes, sir.

Q. Do you recall whether he testified about whether or not Mr. Ugranovich was wobbling?

A. No, sir.

Q. You don't recall that?

A. No, sir.

Q. But he was with you? Mr. George was with you, is that correct?

A. Yes, sir.

Q. And you saw Ugranovich wobbling at the machine?

A. Yes, sir.

Q. How far away were you from Ugranovich when first you saw him?

A. Possibly 15 feet.

Q. How far?

A. Possibly 15 feet.

Q. 15 feet? And he was wobbling over there at the machine as you were coming closer to it?

A. He was standing.

Q. And wobbling?

A. Yes, sir.

Q. You came up to him with George and what did you say to Ugranovich?

A. I told him he was under no condition to work, but that he was to report—or to go home and report to Mr. Hopkins in the morning.

Q. What did Ugranovich do?

A. He picked up his gloves and started off home.

Q. Did you see him wobble, too?

A. Yes, sir.

Q. Just as George had seen him?

A. Yes, sir.

Q. And you saw him for a distance of about 10 feet?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. You didn't see him after that?

A. No.

Q. Now, was this the first time that you had been told about Ugranovich, that is on February 8th?

A. Yes, sir.

Q. Do you know whether or not there was any general policy in the mill with respect to men drinking?

A. Yes, sir.

Q. What is the policy?

A. That no man can work under the influence of liquor.

Q. What is that?

A. No man can work under the influence of liquor.

Q. Does that include having liquor on his breath?

A. I beg your pardon?

Q. Does that include having liquor on his breath?

A. No, sir.

Q. Do you mean that a man can come into the mill with liquor on the breath?

A. Yes, sir.

Q. They don't fire them for that?

A. No.

Q. They don't lay them off for that?

A. I don't.

Q. Is that correct?

A. Yes, sir.

Q. And you have come across, as Mr. George has, hundreds of cases in which men have come into the plant with liquor on their breaths?

A. Yes, sir.

Q. And in many cases you have never even said anything to him, is that correct?

A. What is the question?

(Last question read by the Reporter.)

A. I have told them at safety meetings.

Q. You advised them in a body at safety meetings?

A. Yes, sir.

Q. That it was the company policy not to have men come there with liquor on their breaths?

A. Yes, sir.

Q. But you never fired anyone for doing that or recommended firing anybody for doing it?

A. Repeat that again?

(Question read by the Reporter.)

A. I don't remember.

Q. Well, now, you don't remember whether you have laid off or discharged somebody or recommended their being laid off or discharged for having liquor on their breath, is that what you are saying?

A. Possibly in the last 11 years I have.

Q. How many cases?

A. Well, that is determined by the superintendent.

Q. Well, I am asking you how many cases you recommended that a man be discharged or laid off because he has liquor on his breath?

A. Two or three days.

Q. You say you have recommended their lay-off?

A. Yes, sir.

Q. In how many cases?

A. I don't remember.

Q. Well, would you say 100?

A. No.

Q. Less than 50?

A. I couldn't say.

Q. You can't say whether it was 10 or 50, is that right?

A. No.

Q. And you don't recall?

A. I don't recall.

Q. Is that the general policy of the company?

A. Yes.

Q. That you were following when you laid off these men for two or three days, when they had liquor on their breath?

A. Yes, sir.

Q. Would it be a breach of the company policy, not to lay the men off if they had liquor on their breath?

A. Repeat the question.

(Question read by the Reporter.)

Q. (By Mr. Lauter) I will try to explain it. We are trying to find out what the policy of the company was with respect to the men who have liquor on their breath. Do you lay them off or discharge them for that offense?

A. Not every time.

Q. That is what I am trying to get.

A. Sir?

Q. What are the occasions, when you say there are occasions when you say you depart from the standards

that you set, which permit you to have discretion on the one hand to lay them off and on the other hand not to?

A. No, sir.

Q. What is that?

A. No, sir.

MR. LAUTER: You didn't understand my question.

Q. Sometimes you did and sometimes you didn't, is that correct?

A. Yes, sir.

Q. Now, when did you or when didn't you?

A. When they were too much under the influence of liquor.

Q. You mean you measure the odor—

A. Yes, sir.

Q. —and decide?

A. The condition of the man.

Q. I am talking about liquor on the breath. I am not talking about the wobbly cases. We will come to those later. I am talking about liquor on the breath. Now, sometimes when a man has liquor on his breath you lay him off or recommend that he be laid off?

A. No, sir.

Q. Never?

A. Yes, sir.

Q. Is that what you are saying for the record?

A. Yes, sir.

Q. That a man can come into the Republic plant with liquor on his breath, no matter how strong it is, and you won't lay him off or recommend that he be laid off, is that correct?

A. State that question?

MR. LAUTER: Read the question.

(The last question was read.)

A. I do recommend that he be laid off if it is too strong.

Q. There are different stages of liquor on the breath?

A. Yes.

Q. There is Stage A when he has a little liquor on his breath?

A. Yes.

Q. You do recommend a layoff then?

A. No.

Q. And then there is Stage B when he has a lot of liquor on his breath. Then you do recommend that he be laid off?

A. Yes, sir.

Q. And then you recommend that he be laid off, is that right?

A. Yes.

Q. Now, you tell me how you determine if he has a lot or a little bit of liquor on his breath.

A. You mean by layoff, indefinitely?

Q. I don't care if it is a day or two or a week. I am trying to find your standards. When you lay off a man, I assume you are—you are probably a reasonable person. You are in a position of responsibility, aren't you?

A. Yes, sir.

Q. You are a foreman?

A. Yes, sir.

Q. And as a foreman you have the right to recommend layoffs and discharges?

A. Yes, sir.

Q. And more often than not they are fired?

A. What is that?

Q. More often than not?

A. Yes, sir.

Q. And you wouldn't recommend that a man be laid off unless you think he should be laid off, is that correct?

A. Yes, sir.

Q. When you recommend him for layoff you think he should be laid off, you say?

A. Yes, sir.

Q. When you recommended the layoff of Ugranovich you thought he should be laid off?

A. Yes, sir.

Q. Now, I want to confine this testimony for the moment with the liquor on the breath cases. We have one case where there is a little liquor on the breath and you don't recommend that they be laid off, and we have the other where there is a lot of liquor on the breath and you recommend that they be laid off.

A. Disciplined.

Q. Disciplined?

A. Yes, sir.

Q. What do you mean by disciplined?

A. Give them a couple of days' layoff.

Q. You lay them off for a couple of days, is that right?

A. Yes, sir.

Q. Now, how many cases have you recommended of men to be laid off if they have a little liquor on the breath?

A. I don't remember.

Q. One case?

A. I don't know.

Q. At least one, is that correct?

A. Yes.

Q. You say at least one?

A. Yes.

Q. And in at least one case you smelled liquor on the breath of the man whom you didn't recommend for a layoff, is that correct?

A. Yes.

Q. Now, we have two cases. We have got one where you smelled a little liquor on the breath and we have another case where you smell a lot of liquor on the breath.

A. Yes, sir.

Q. Do you remember the case?

A. No, sir.

Q. Do you remember the man?

A. No, sir.

Q. You don't even remember if it happened?

A. No.

Q. I am asking you if you remember the case of a case like Man A who has a little liquor on his breath and the case of a Man B who has a lot of liquor on his breath. Remember those cases A and B?

A. Yes.

Q. Now, just keep them in mind.

A. Yes.

Q. When did Case A happen?— When was the case when you smelled a little liquor on his breath and didn't recommend that he be laid off?

A. I don't remember.

Q. Remember it happening?

A. Possibly.

Q. I am not interested in speculations. Do you recall that incident of not recommending a man for layoff when he had a little liquor on his breath?

A. No.

Q. Now, do you have an independent recollection of a case where you smelled a little liquor on a man's breath and didn't recommend that he be laid off?

A. Yes, that was before the Republic Steel took it over.

Q. Before the Republic Steel took it over?

A. Yes, sir.

Q. But you have no recollection of a case since?

A. No, sir.

Q. Well, the policy has changed since the Republic Steel took it over?

A. Yes, sir.

Q. There has been a change in policy?

A. Yes, sir.

Q. What is the change in policy with respect to a little liquor on the breath?

A. Well, beforehand we never sent a man home for that.

Q. Before what?

A. For a little on the breath.

Q. No matter how strong it was?

A. Yes, sir.

Q. What?

A. Yes, sir.

Q. No matter how strong it was?

A. If he wasn't intoxicated.

Q. I am asking you about liquor on the breath. If a man had liquor on the breath, you never sent the man home before the Republic took it over?

A. If he was intoxicated, we did.

Q. We are trying to get physical facts here. If a man had a lot of liquor on his breath before the Republic took it over, did you lay him off or didn't you?

A. Not unless he was intoxicated.

Q. What do you mean by intoxicated?

A. He couldn't work.

Q. He couldn't work?

A. Yes.

Q. But if he had liquor on his breath and could work, that was all right?

A. Yes, sir.

Q. Was there a change of policy after the Republic took it over?

A. Well, we were told—

Q. But it was the same policy?

A. It was the same policy.

Q. No change in policy?

A. No.

Q. If a man were drinking and had a strong odor on his breath it was all right as long as he could work, is that correct?

A. If he can work safely.

Q. That is correct. The odor on his breath didn't

make a bit of difference?

A. Yes.

Q. It didn't make a bit of difference, is that correct?

A. Yes.

Q. Now, you approached Ugranovich and he had an odor of liquor on his breath, is that correct?

A. Yes, sir.

Q. How close did you come to him?

A. Right up to him.

Q. Right up to him?

A. Yes, sir.

Q. Do you remember whether it was a light odor or a strong odor?

A. A strong odor.

Q. A very strong odor?

A. Yes, sir.

Q. He was wobbly as you were talking to him?

A. Weaving.

Q. But he was wobbling as you were talking to him?

A. Yes, sir.

Q. As you came up to him, he was wobbling, and as you were talking to him, he was wobbling?

A. Yes.

Q. What did you say to him?

A. "You are in no condition to work. You will have to go home and report to Mr. Hopkins in the morning."

Q. About what time was that in the morning?

A. Possibly 15 after; possibly 10 after.

Q. In fact, all the time you saw Ugranovich he was wobbling, wasn't he?

A. Yes.

Q. He was wobbling when you came to him and he was wobbling when you talked to him and while you were walking away, is that right?

A. Yes, sir.

Q. And all the time George was with you?

A. Yes, sir.

Q. Was he wobbling very badly?

A. Not so bad.

Q. Not so bad?

A. No.

Q. Just a little bit?

A. Yes.

Q. Is that right?

A. Yes.

Q. Had you ever seen men in the mill wobbling just a little bit before?

A. In what way?

Q. Just wobbling?

A. Well, you might wobble and be walking in the mill and not be—it might be the footing underneath.

Q. But you are sure it wasn't the footing in this case?

A. No, sir.

Q. Now, as he walked away from the machine towards the door you could see him for about 10 feet?

A. Yes, sir.

Q. Was he wobbling just a little bit at that time?

A. Quite a bit.

Q. Wobbling?

A. Yes, sir.

Q. He was wobbling more as he walked and as he stood at the machine?

A. He was walking then.

Q. He was walking then?

A. Yes, sir.

Q. And he wobbled a little more?

A. Yes, sir.

Q. Now, when you spoke to Mr. Hopkins, that was about what time?

A. About 8:05.

Q. What did you say to Mr. Hopkins?

A. I can't say the exact words.

Q. Give it to me in substance.

A. I told him I sent the man home for being intoxicated. He was going to report to him in the morning.

Q. What else did you say to Mr. Hopkins?

A. I told him that the grinder boss suggested he be laid off and I in turn made that suggestion.

Q. Did you at that time say anything about wobbling?

A. Yes, sir.

Q. To Mr. Hopkins?

A. Yes, sir.

Q. You told Mr. Hopkins that he was wobbling, is that correct?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir.

Q. What else did you tell Mr. Hopkins?

A. That is all.

Q. Did you tell him anything about smelling liquor on his breath?

A. Yes, sir.

Q. That is something else you told him?

A. Yes, sir.

Q. You told him that, too?

A. Yes, sir.

Q. Give me as near as you can the language in which you told him about Mr. Ugranovich. Tell us the whole thing. Tell us everything you told Mr. Hopkins, as nearly as you can remember.

A. That I had a man who was under the influence—that I sent home a man who was under the influence of liquor, and that I smelled it on his breath, and that the grinder foreman suggested he be laid off, and I in turn suggested he be laid off.

Q. Is that everything you said to him?

A. That he was in a wobbly condition when he went out the building.

Q. You told that to Mr. Hopkins?
A. Yes.
Q. Is that all you told to Mr. Hopkins?
A. That is all as I remember.
Q. What is that?
A. That is all I can recall right now.
Q. What did Mr. Hopkins say to you?
A. I don't remember.
Q. You don't remember a single word he said?
A. No, sir.
Q. Remember whether he said anything?
A. What is that?
Q. Remember whether he said anything?
A. I do not.
Q. You remember pretty clearly what you said?
A. Yes, sir.
Q. Liquor on his breath, intoxicated, wobbly. But you can't even remember whether Hopkins said anything, is that correct?
A. Yes, sir.
Q. (By Mr. Lauter) Now, did you receive any instructions as Mr. George did, with respect to laying off men who were under the influence of liquor?
A. Yes, sir.
Q. From whom?
A. I was told not to let a man work if he was under—intoxicated.
Q. I ask you from whom?
A. From the superintendent.
Q. What is his hand [name]?
A. Mr. Hopkins.
Q. Now, that is the same gentleman who gave Mr. George his instructions?
A. Yes, sir.
Q. Now, you tell me when Superintendent Hopkins

told you about what to do in case you found a man under the influence of liquor?

A. That is at various times.

Q. What is that?

A. Various times.

Q. Superintendent Hopkins told you, gave you instructions at various times?

A. Yes, sir.

Q. When was the first time you got instructions?

A. I don't recall.

Q. How many years ago?

A. Possibly 11.

Q. 11? What did he say then, do you remember?

A. No, sir.

Q. What was the next time you got instructions?

A. I couldn't say.

Q. What was the last time you got instructions?

A. I couldn't say that either.

Q. Within a year or two or a month?

A. I couldn't say.

Q. You just don't remember?

A. No, sir.

Q. You don't remember when it was? Now, let's see if you remember when it was, that you received instructions about the last time Superintendent Hopkins spoke to you about how to handle men that were under the influence of liquor. What did he say?

A. I don't recall.

Q. You don't remember what he said? Did anyone else give you instructions besides Superintendent Hopkins?

A. No, sir.

Q. But you executed his orders anyway? These instructions that you can't remember when you got them or where you got them or what was said, you carried them out anyway, is that correct?

A. Yes, sir.

Q. You can't remember what the instructions were, though?

A. No, sir.

Q. What?

A. Not to let men work under the intoxicated condition.

Q. Oh, you remember what the instructions were, now?

A. I remember that.

Q. Were those instructions Superintendent Hopkins gave you?

A. Yes, sir.

Q. And you are sure that they were?

A. Yes, sir.

Q. Now, let's have them once more, what were the instructions?

A. Not to let a man work under an intoxicated condition.

Q. And did he explain to you what he meant by an intoxicated condition? I am asking you whether Superintendent Hopkins himself told you what he meant when he used the words and gave the instructions not to let a man work under intoxicated condition?

A. No, sir.

Q. That was left up to your own personal discretion?

A. Yes.

Q. Is that correct?

A. Yes, sir.

Q. If you smell liquor on his breath, and you felt he should be sent home, why you sent him home? Right?

A. Yes, sir.

Q. And it was up to you if you seen him wobbling to send him home or let him stay there, is that correct?

A. Yes, sir.

Q. That was all a matter of your own personal discretion?

A. Yes, sir.
MR. LAUTER: That's all.
MR. KETTERER: That's all.
(Witness excused.)

LAURISTON E. MILLER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Lauriston E. Miller.

Q. Where do you live?

A. Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. In what capacity do you work at Republic Steel Corporation?

A. As general foreman.

Q. You are general foreman over what department?

A. The billet and finishing.

Q. What department?

A. Billet and finishing. Billet shed and finishing.

Q. How long have you worked for Republic Steel Corporation?

A. 17 years.

Q. Have you been a foreman in this department during all that period of time?

A. No, sir.

Q. How long have you been a general foreman in that department?

A. About four years.

Q. Now, do you recall, in the spring of 1937, from

the first of the year until the end of March, are you familiar with the number of furnaces that were operating in the Massillon plant? You can answer that yes or no.

A. Yes.

Q. How many furnaces were operating in the Massillon plant from January until March, 1937, approximately?

A. About six furnaces, five or six furnaces.

Q. What, if anything, does the number of furnaces and the output from the number of furnaces have to do with the number of chippers and grinders that you have in your department?

A. It does not deal with grinders at all, it deals with chippers. We work in a ratio of about 75 chippers per furnace.

Q. Now, beginning in April, 1937, what, if anything, was done in the Massillon plant in respect to the number of furnaces in operation? Was that increased or decreased?

A. Decreased.

Q. And to what number?

A. Reduced the furnaces down to four.

Q. And was anything done as to what kind of steel was produced in the four furnaces that were operating?

A. Yes, there were two furnaces producing alloy and two producing carbon steel.

Q. Now, what, if anything, had to be done in respect to the two types of steel, bearing upon the number of men you have in your department?

A. Your alloy steels have to be processed by chipping and your carbon steel, there is no processing done.

Q. That is to say, as far as output from the two furnaces that were producing carbon steel you had no chippers?

A. That is right.

Q. Now, how many chippers were working in the Massillon plant up to the end of March, 1937, approximately?

A. We had approximately about 600.

Q. And when production decreased and only two furnaces were placed on the production of carbon steel in April, 1937, what, if anything, was done in respect to the number of chippers which you said up to that time was around 600?

A. We decided to cut the force.

Q. By what number?

A. Approximately 225 chippers.

Q. Now, were you acquainted with a man by the name of Peter Demos?

A. I know him.

Q. And he worked in what department?

A. He was a chipper.

Q. Now, I will ask you, Mr. Miller, whether or not he was included in the list of 225 chippers who were laid off as a result of decreasing production in the Massillon plant?

A. He was.

Q. Do you recall when he was laid off?

A. He was laid off in May, along the forepart. I think it was the 5th. This year.

Q. Are you acquainted with a man who works in the Massillon plant by the name of Happy North?

A. Yes, sir.

Q. What department does he work in, Mr. Miller?

A. The inspection department.

Q. I will ask you to state whether or not he has the standing of foreman in the plant?

A. He does not.

Q. And did he, prior to the strike, on the 26th of May, 1937?

A. I beg your pardon?

Q. Did he have that standing prior to May 26th, 1937?

A. He still retains his same position now.

Q. That is, inspector?

A. Yes, sir.

Q. And are you acquainted with a man by the name

of George Pappas?

A. Yes, sir.

Q. Does he work in the Massillon plant?

A. He does.

Q. Do you know what department he works in?

A. Inspection.

Q. I will ask you whether or not he has the capacity of a foreman?

A. No, he does not. He is a pipe inspector.

Q. Are you acquainted with a man whose name is Whitey Taylor?

A. I know Whitey Taylor.

Q. Do you know in what capacity he is employed by Republic Steel Corporation?

A. He is an inspector.

Q. And does he have the standing of foreman in that plant?

A. He does not.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) How many men work under you, Mr. Miller?

A. Are you referring to the whole department?

Q. May 25th?

A. The whole department? Approximately about 800, that is American and foreigners along, everybody.

Q. You say "American and foreign"?

A. Yes, the whole department, you asked me?

Q. Yes, well, you don't divide them up into American and foreigners, do you?

A. No, I am taking the whole personnel. You asked me the entire, whole department.

Q. I am just wondering why you made some—you classified them as American and foreigners?

A. Well, we are talking about chippers.

Q. Well, are chippers any different than the rest of them in your department?

A. No.

Q. You say there is 75 chippers to each furnace?

A. I would say that the ratio is approximately 75 per furnace.

Q. And from January to March, 1937, there were five or six furnaces running?

A. Yes, sir.

Q. How many were there, five or six?

A. There was six.

Q. Six? Now, are all of the chippers under your department?

A. Yes, sir.

Q. What other kinds of employees work for you?

A. We have loaders, pilers, and transfer men, picklers, scarfers.

Q. In March, 1937, how many chippers were there working for you?

A. Approximately 600.

Q. Approximately 75 to a furnace, right?

A. We figure that, yes.

Q. And you had six furnaces running? Six times 75 are 450, isn't it? Isn't that correct?

A. Yes.

Q. Now, in March did you have 450 or did you have 600?

A. We had 600.

Q. 600? Then there aren't 75, there are many more?

A. Yes, but I say, in setting up of a ratio of what to figure, to figure our force on, we generally figure 75 per furnace. We may have to have more.

Q. Well, as a matter of fact, they had about 100 on each one of them, didn't you?

A. Yes.

Q. Then you were going to decrease the force?

A. Yes, sir.

Q. By about 225?

A. Yes, sir.

Q. And you did?

A. No, we didn't.

Q. You didn't? Well, up to the time of the strike, were all of the furnaces going?

A. No. We decreased it, some of it. We didn't decrease it 225.

Q. How many did you decrease it?

A. 187.

Q. 187?

A. Yes, sir.

Q. When did that take place?

A. It started in the latter part of April and continued on into the first part of May.

Q. What was the reason for decreasing the force?

A. I beg your pardon?

Q. What was the reason for decreasing the number of chippers?

A. Because the furnace production was cut down, the furnaces were taken off.

Q. Now, in decreasing the number of chippers, did you take off all men from one furnace, or did you take a certain number from each one of the furnaces? How was that operated? Explain how that is done.

A. No, you just reduce your force by laying off the younger men in service record.

Q. Is that what you did there?

A. Yes, sir.

Q. Did you personally check—

A. I beg your pardon?

Q. The seniority records.

A. I beg your pardon?

Q. I say, did you personally check the seniority records? On that decrease?

A. No, Mr. Peppard did.

Q. Did you see—

A. The superintendent—I saw them.

Q. Did you see the employment records?

A. I saw the service records.

Q. By that I mean the records that would show the seniority of the various men who were being laid off?

A. Yes, sir.

Q. Now, are you stating for the record, now, that the men that were the youngest in service were laid off first?

A. They started at the youngest men and laid off according to that.

Q. And did they go right down the list that way?

A. With—There may have been some exceptions, I don't know.

Q. That is what I am asking. That is what I am interested in. You tell me whether or not you know whether there were any exceptions?

A. No, I don't know of any exceptions.

Q. Do you know that they did go down the list, or don't you know at all?

A. I don't know. They went down the list as far as my knowledge of it. The list of men that were laid off were given to us by the superintendent.

Q. That is a list already prepared, of men who were to be laid off, were given to you?

A. Daily, yes.

Q. You didn't see the list of the men, containing the record of their seniority, so that you could state for the record whether or not they were laid off by the youngest men first?

A. No, I can't state that.

Q. You can't state that at all? Mr. Peppard would be able to state that?

A. Mr. Peppard was the superintendent.

Q. He is the superintendent?

A. That is right.

Q. All you got was the list of the men to lay off?

A. He gave us the list to lay off.

Q. Now, one time you went down to two furnaces, is that correct?

A. Two furnaces on alloy.

Q. And on those two furnaces, how many men did you have?

A. Well, when we got down low, that is when the lay-off started, and we kept reducing the force.

Q. When, before the lay-off started—how many did you have on those two furnaces?

MR. DAY: Do you mean chippers?

Q. (By Mr. Lauter) That's right, chippers? I wonder, is that correct?

A. We had 600 to start with.

Q. On the two furnaces?

A. No, no.

Q. I am asking you, at the point where you had reduced it to about two furnaces?

A. Oh, the force was down then probably about 400 chippers some place.

Q. About 400 chippers?

A. Yes.

Q. That is about 200 to a furnace?

A. Yes.

Q. You don't know from your own personal knowledge whether or not the seniority rule was violated in connection with the laying off of chippers, is that correct?

A. I don't know.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

TRIAL EXAMINER LINDSAY: We will take a ten minute recess.

(Recess had.)
(Witness excused.)

TRIAL EXAMINER LINDSAY: The hearing is called to order.

HARRY E. HILBERT

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your name, please?

A. Harry E. Hilbert.

Q. I didn't get that.

A. Harry E. Hilbert.

Q. Where do you live, Mr. Hilbert?

A. Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. How long have you worked for the Republic Steel Corporation or its predecessors?

A. 19 years.

Q. In what capacity are you employed now?

A. Chipper foreman.

Q. Have you been a chipper foreman for these entire 19 years?

A. No, sir.

Q. How long have you been a chipper foreman?

A. Between three and a half and four years.

Q. Were you a chipper foreman in May, 1937, at the time of the strike?

A. Yes, sir.

Q. And you have been a chipper foreman since that time?

A. Yes, sir.

Q. Now, are you familiar with the number of chippers that there were in the entire department during the first part of 1937?

A. Yes, sir.

Q. How many?

A. Better than 600.

Q. How many furnaces were in operation at that time?

A. Six.

Q. Now, what is the ordinary ratio of chippers to a furnace generally speaking?

A. Well, 75; that is, if the steel runs normal.

MR. KETTERER: Will you read that last answer?

(The last answer was read.)

Q. Now, during the first part of 1937, from January through March, can you tell us why you had more than 75 chippers to a furnace?

A. Yes, sir.

Q. Why was that?

A. Well, they had lots of orders on them and was pushing the open hearth. They were starting to hunt the chippers. They needed more men.

Q. Now, beginning in April, 1937, what if anything was done in respect to furnace operations in the Massillon plant, if you know?

A. Well, orders dropped off and they took off two furnaces and they put two more on. It was a carbon steel, low carbon, which requires very little chipping, if any.

Q. What if anything was done in respect to laying off chippers following that deduction in the furnaces?

A. Well, our chippers were averaging 48 hours a week and then they gave them 40, and then they started the stagger system of working—well, lined up for several weeks—sometimes 3 and 4 and 5 days. I would say they

averaged 20 to 28 hours a week, so some of them started hollering about the older men stuff and that. The superintendent, I guess he was the one that decided about that layoff, so they decided to lay off the younger men.

Q. When did you start to lay off the men after the production went down on the furnaces?

A. I wouldn't say the exact date but after the 24th or 25th of April.

Q. Now, was that done all at one time or tell us how this process of laying off men was done.

A. No, we got a list every day. I had—each of the other foremen did, how many to lay off that day. This came from the superintendent. Some days maybe four, and some days maybe seven.

Q. I will ask you whether or not while you were still in the process of laying off the men at the time of the strike?

A. Well, yes, we were laying off very few the last week or so before the strike.

Q. Now, are you acquainted with a man by the name of Peter Mouyias?

A. Yes, sir.

Q. Where did he work in the Massillon plant, if you know?

A. In the billet shed as a chipper.

Q. Did he work on your turn?

A. Yes, sir.

Q. How long has he worked there, if you know?

A. He started some time in January, 1935.

Q. January, 1935?

A. Yes, sir.

Q. Do you know whether or not he worked continuously then up until 1937, or whether there was any period of a layoff?

A. No, he worked steady.

Q. Do you recall when he was laid off?

A. Yes, sir.

Q. Where was that, approximately—when?

A. May 4th or 5th. I think it was the 4th.

Q. 1937?

A. Yes, sir.

Q. Now, did you have a conversation with Peter Mouyias just prior to the time he was laid off by the superintendent?

A. Yes, sir.

Q. Tell us what you said to him at that time.

A. Well, about between 20 and 15 minutes to 7—I don't know the exact time—I went down to him and I told him, I says: "Pete," I says, "the boss wants to see you in the office—Mr. Peppard—you go in a little bit early before quitting time."

Q. Now, is that all the conversation you had with him?

A. No. He said: "What is the matter?" And I said: "I don't know."

Q. I want to ask you this question, Mr. Hilbert. Did you say to Mr. Mouyias at that time, that is, on the day you instructed him to go to the superintendent's office, did you say to him this or this in substance: "I know he is going to lay you off but I cannot help you?"

A. No, sir.

Q. Now, what if anything did Peter Mouyias do after you instructed him to go to the superintendent's office?

A. Well, he went in and that is the last I seen of him during the turn. I saw him later.

Q. Now, did you see him again that day after your turn was finished?

A. Yes, sir.

Q. By the way, from what hours did the turn extend?

A. Seven to three.

Q. Seven to three?

A. Seven in the morning until three in the afternoon.

Q. Did you have a conversation with Peter Mouyias after he returned from the superintendent's office?

A. Yes, sir.

Q. Where did you have that conversation?

A. Why, I was leaving our office to go down to the clock house to ring out and this Pete Mouyias approached me.

Q. How long was that after you had instructed him to go to the superintendent's office?

A. Oh, probably—

Q. Approximately?

A. Probably half an hour.

Q. Now, what did Peter Mouyias tell you when you saw him there? When you were on the way to the clock house?

A. Well, he said: "Lefty, I am laid off."

Q. Who is Lefty?

A. That is me; that is my nickname.

Q. Go ahead.

A. He said: "I don't think I ought to be laid off; there is some younger men." I said: "Pete, tell me who those men are and I will find out." And he mentioned two men.

Q. Do you remember their names?

A. I can recall one of them.

Q. Who was that?

A. His card number is 73855—John Sabobick.

Q. Do you know how to spell that?

A. I think I do. I am not sure about one letter. There may be an H in it. S-a-b-o-b-i-c-k.

Q. Now, he said to you that there were two men—he mentioned two men he said were younger in point of service?

A. No. He said men that were working and I said: "Who are they?" And he says who they were.

Q. And those were the two he mentioned?

A. Yes, sir.

Q. Now, did he say anything else at that time that you can recall?

A. No.

Q. What did you tell him?

A. I told him I would check into it the next day and let him know.

Q. Now, what if anything did you do on the following day in respect to checking on these two men that he mentioned?

A. Why, I came to work some time in the morning—I don't know when—and I went to Mr. Peppard's office and told him the story, that Peter gave me. He said: "Well, do you have the names and numbers?" I said: "Yes."

MR. LAUTER: I am sorry. I can't hear you.

MR. KETTERER: Will you talk a little louder, please?

A. (Continuing) So I took out the names and gave them to Mr. Peppard, and he took out his service record and showed me right on the list when these men were hired. One was hired in 1933 and the other was hired in 1934 in the open hearth department—he got a transfer as a chipper later on.

Q. Now, they had earlier service records than Peter Mouyias, did they?

A. Yes, sir.

Q. Now, did you do anything to indicate—to communicate that information to Peter Mouyias?

A. Yes, sir.

Q. What if anything did you do about that?

A. I went out in the shed and I saw one of the chippers that works with him, George Nicker.

Q. To your knowledge, was he a friend of Peter Mouyias?

A. Yes, sir, the same nationality.

Q. What did you tell this George?

A. I said: "George, do you ever see Pete?" He said: "Yes, sometimes I see him in the coffee house." I said "Tell him about the two men that I checked up on and they are older than he is."

Q. Have you seen Peter Mouyias since that time?

A. No, sir.

Q. Do you know a man by the name of Peter Demos?

A. No, sir.

Q. You don't know him?

A. No, sir.

Q. Do you know what wages Peter Mouyias was receiving during the early part of 1937?

A. I don't know. The early part of 1937?

Q. Yes. Up to the time when he was laid off, approximately?

A. Well now, there is a variation in there. I don't know—the 3rd of March or the 16th of March. He got a 10% increase from 78 to 82 cents an hour. Afterward they ran 88 to 95. It was on an average, I am talking about.

Q. What was the basic rate at which chippers were paid after the increase in March?

A. 65 cents per tonnage.

Q. What?

A. 65 cents per tonnage.

Q. What was the tonnage rate?

A. Well, that varied, according to your classifier. They work on it on a classifying basis. It is what the classifier does—he is an estimator. He goes out to estimate the time it is going to take the field to be cleaned off. It is all in different classes. No. 1 class is a clean class—he puts it in different classes for classification of rates. I mark that on my report what class it is in. And then the men ask me and I tell them. If they can chip that steel in less time than what he estimated it, that is that much more money for them.

Q. It is figured on a tonnage?

A. Yes, sir.

Q. Are you acquainted with a man by the name of Paul Hoffman?

A. Yes, sir.

Q. What is his position in the Massillon plant of the Republic Steel?

A. Piler.

Q. Does he have the rating or standard of a foreman in the plant?

A. No, sir.

Q. Do you know a man by the name of Paul Paulis?

A. Yes, sir.

Q. In what department was he employed by the Republic Steel?

A. Billet sheds.

Q. Billet what?

A. Billet sheds.

Q. In the billet sheds?

A. Yes, sir.

Q. Do you know whether or not he was laid off in 1937 or not?

A. I knew he was laid off.

Q. Do you know whether he is working at the plant now?

A. Yes, sir.

Q. Do you recall about when he was re-employed?

A. No, I can't. He doesn't work for me; he works on one of the other turns. It is I would say before the last two weeks.

MR. KETTERER: All right. That is all.

Cross Examination

Q. (By Mr. Lauter) Who was Mr. Peppard?

A. Superintendent of the billet and finishing department of the Massillon plant.

Q. Your superior?

A. Yes, sir, he was; he is not now. He got transferred about a week ago.

Q. What is that?

A. He got transferred about a week ago. He got transferred from Massillon.

Q. You say there were about 600 men?

A. I would say a little better than 600. I wouldn't say exactly. It was better than 600 but not over 610 or 615.

Q. When did they start laying them off?

A. Around March 24th and 25th.

Q. When did you say?

A. It was the latter part of March. April—I beg your pardon.

Q. (By Mr. Lauter) From January to March, 1937, do you know how many furnaces were operating in the Massillon plant?

A. Six.

Q. You said the ratio was about 75 to each furnace?

A. Just like I explained to him. That is what you figure on normal steel.

Q. Was the steel normal then or not, during that period?

A. No.

Q. During the period from January to March?

A. When they got these six furnaces running, business got rushing, they started pushing the open hearths. When the steel started getting dirtier, there was lots of it had to be skinned, to take out defects, so they went out and got more chippers. They put up an extra chipping bed to handle about 30 men. We didn't have room on our normal chipping bed.

Q. When was that?

A. We can only handle—we could only handle 510 chippers on their normal chipping beds.

Q. When did you set up the extra chipping bed?

A. Along in—Well, I won't say the exact date. In

the first part of '37, latter part of January or first part of February.

Q. How many men did you lay off during the month between April 24th or April 25th and May 6th, the day of the strike?

A. I think—You mean just how many did I lay off? Or the department?

Q. Yes, how many did you lay off personally? How many were laid off in the department?

A. I think on my turn there was 23 or 24.

Q. Out of how many?

A. It ran close to 190.

Q. From your turn they laid off 23 or 24?

A. That is to the best of my knowledge.

Q. Out of 190? How many did they lay off in the entire department?

A. That is what I said, out of 190.

Q. That was your turn, wasn't it?

A. Yes.

Q. I say, in the entire department, covering that turn?

A. You got me wrong. I mean I laid off 23 out of the 190 that were laid off.

Q. Oh, I see. There were 190 laid off and you personally laid off about 23 or 24?

A. Yes.

Q. Is that correct?

A. Yes.

Q. When you say you personally laid off that, do you mean that you had advice from Mr. Peppard to lay them off, and you laid them off?

A. No.

Q. You mean you selected the men who were to be laid off?

A. No, sir.

Q What do you mean?

A. Well, Mr. Peppard gave me the numbers of the men.

Q. That is what I asked you the first time, whether Mr. Peppard gave you instructions about laying off these men?

A. Yes.

Q. So you don't know whether or not seniority was followed or ignored, is that correct?

A. No.

Q. Of your own personal knowledge?

A. Well, I seen the seniority list, but whether that seniority list was correct, I don't know.

Q. Where did you see the list?

A. Mr. Peppard's office.

Q. When did you see it for the first time?

A. When I was talking about this Pete Demos.

Q. What?

A. When I was talking about this Pete Demos.

Q. When, in terms of dates did that take place?

A. Well, that is in May 5th or 6th.

Q. May 5th or 6th? How many names were there on that list that you saw?

A. 600 and some.

Q. 600, were there no scratches of names being taken off or taken away, men being laid off on the list that you saw?

A. Yes, sir.

Q. What indication was there on the list with respect to seniority?

A. Well, the oldest men were first. And it went on down body after body to the last man hired.

Q. Now, you are saying that 23 or 24 men that you laid off were men on the last pages, the younger men?

A. Yes, sir.

Q. You are sure of that?

A. Yes.

Q. Did you ever check it?

A. I have checked it, yes, sir. By that, I don't mean I checked every name on the whole list, but I checked some where they started laying off men, until we got under that.

Q. You mean you saw the names of the men whom you have laid off, on the list?

A. Yes, sir.

Q. But you didn't check to see whether or not they were younger or older men on that list?

A. I know where they started to lay off from.

Q. I understand, they started from the bottom of the list?

A. Yes.

Q. They started from the bottom because, as you understand, they were the younger men, but that is the extent of the check that you made, at least to see whether or not they were on the bottom of the list?

A. Yes, sir.

Q. You don't know actually whether they were younger or older? You just know they were on the bottom of the list?

A. I would not swear to everyone, no, sir.

MR. LAUTER: That's all.

MR. KETTERER: That's all.

(Witness excused.)

WILLIAM R. HERSHBERGER

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your full name, please?

A. William R. Hershberger.

Q. Where do you live?

A. 425, 18th Street, N. W., Massillon, Ohio.

Q. By whom are you employed?

A. Republic Steel Corporation.

Q. And in what capacity are you employed by the Republic Steel Corporation?

A. General foreman.

Q. How long have you been a general foreman in Republic Steel or its predecessors?

A. About 15 years.

Q. In what department are you a general foreman?

A. Billet shed department.

Q. Were you a foreman in the billet shed department in May, 1937?

A. Yes, sir.

Q. And from the 1st of January, 1937, on to May, 1937, were you a foreman in the billet shed department?

A. Yes, sir.

Q. Were you acquainted during that time or were you working with a man by the name of Sherman Ebbert?

A. Yes, sir.

Q. How long have you known Sherman Ebbert?

A. About four years.

Q. In what capacity was he working for Republic Steel in May, 1937?

A. Cold saw operators.

Q. How long had he worked in the department over which you were general foreman?

A. Four years.

Q. Now, do you recall whether or not Sherman Ebbert ever returned to work in July, 1937, after the plant reopened?

A. Yes, sir.

Q. Do you know when it was that he returned to work?

A. Yes, sir.

Q. Do you know whether or not he returned to his old job of cold saw operator?

A. Yes, sir.

Q. Now, were you in Mr. Peppard's office at any time when this man Ebbert came in there?

A. Yes, sir.

Q. Do you recall when that was?

A. July 13th.

Q. July 13th?

A. Yes, sir.

Q. That was two days after he returned to work?

A. Second day he was there.

Q. Second day? And who was present in that office at the time Mr. Ebbert came in?

A. Mr. Miller.

Q. Was that Lauriston Miller, the man who testified here a little while ago?

A. Yes, sir.

Q. Was there anybody else there?

A. Mr. Peppard and myself.

Q. Now, had you been there before Ebbert came in?

A. In the office?

Q. Yes.

A. Yes, sir.

Q. Now, do you remember any conversation that Mr. Ebbert had with Mr. Peppard on that occasion?

A. Yes, sir.

Q. Now, just tell us the substance of what was said by either Mr. Ebbert or Mr. Peppard or by both of them, when he came in there on that day? You don't need to give the exact words.

A. Mr. Ebbert told Mr. Peppard that the boys didn't want to work with him. Mr. Peppard asked him why. He said because the men wanted him to join some kind of a union.

Q. What is that answer?

A. Mr. Ebbert said they wanted him to join some kind of a union. Mr. Peppard says, "I don't know anything about that," he says, "I will see what I can do." He says, "You go home and I will see these other boys and see if I can straighten it out." So this—

Q. And what did Ebbert say—Did Ebbert say anything more then?

A. Well, he asked Mr. Peppard if it were true, the statement that Mr. Girdler made, that a man didn't have to belong to a union to work for the Republic Steel.

Q. What did Mr. Peppard say to that?

A. Mr. Peppard says, "That is right."

Q. Now, after that conversation what, if anything, did Mr. Ebbert do?

A. He went to the locker room.

Q. Did you stay in the office?

A. Yes, sir.

Q. What did Mr. Peppard do, if anything, about calling the men in this department, in there?

A. He sent a fellow out to have the boys come in. They were outside of the office.

Q. Now, did anybody come in the office then?

A. Yes, sir.

Q. Do you recall who came in?

A. Some of them.

Q. How many?

A. I recall some of their names, some of the men; about 15.

Q. About 15 came in?

A. Yes, sir.

Q. Do you recall any of their names?

A. Yes, sir.

Q. Who came in?

A. Marvin Schwartz, Paul Hoffman, Ralph Eberle. That is all I can recall.

Q. Did Mr. Peppard in your presence, there, have any

conversation with this group of men that came in there, including the ones you have named?

A. Yes, sir.

Q. Now, just tell us what Mr. Peppard said?

A. Mr. Peppard asked these men if they would not reconsider and leave this fellow go back to work until he could straighten things out.

Q. Now, I will ask you as to whether he made any inquiry of these men why they didn't want Chairman Ebbert to work with them?

A. Yes, he did.

Q. Did he get any reply to that?

A. They said he was pretty tough with them on the outside, and they were going to be the same way with him on the inside.

Q. On the inside, at what time did they say?

A. They didn't mention the time.

Q. They didn't mention it?

A. No.

Q. Now, what, if anything, did the men do or say after Mr. Peppard asked them to reconsider what they had said?

A. Well, they all agreed that they would reconsider it and go back to work.

Q. And did Mr. Peppard do anything in respect to notifying Ebbert, if you know?

A. Yes, sir.

Q. What did he do?

A. He sent Mr. Miller out after him to see if he was still out in the locker room, and he was in the locker room.

Q. Now, did he return to Mr. Peppard's office that day?

A. Yes, sir.

Q. Were you present, then?

A. Yes, sir.

Q. And did any conversation take place at that time between Mr. Peppard and Mr. Ebbert?

A. Mr. Peppard told him to go back out on his regular job.

Q. He told him to go back on his regular job?

A. Yes, sir.

Q. Now, did you observe after that conversation whether he did go back to his regular job?

A. Yes, sir.

Q. Do you recall how long he worked on that job following that?

A. Yes, sir, July—or August 6th was his last day.

Q. August 6th, 1937?

A. Yes, sir.

Q. That is from the 12th of July, 1937, when this conversation took place, when Mr. Peppard told him to return to work, until August 6th, 1937?

A. Yes, sir.

Q. And during that period of time what is the fact as to whether or not he worked at his regular job?

A. He worked at his regular job.

Q. As cold saw operator?

A. Yes, sir.

Q. Now, when did you receive, if you did receive, any information that Mr. Ebbert was going to lay off?

A. On August 7th, a man by the name of Louis Wetzel reported to me—

Q. Will you talk just a little louder, please? I can't hear everything you say.

A. I will try. On August 7th a man by the name of Louis Wetzel who works as a burner came into my office and reported that Mr. Ebbert would not be out that day, he was going away. I asked him if he knew what the trouble was and he said no. I said, "O. k."

Q. Now, since that time, that is, since the 7th of August when this man was reported off for that day, by this

man Wetzel, has Sherman ever returned to the plant, to your knowledge?

A. No, sir.

Q. Has he ever asked you from that time down to the time that you are on the witness stand here to come back to his old job?

A. No, sir.

Q. In this group of men that you say came into your office I believe you mentioned the name of Eberle, is that correct?

A. Yes, sir.

Q. Who is Ralph Eberle?

A. Ralph Eberle—

Q. In what capacity is he employed by the Republic Steel Corporation?

A. Loader.

Q. I will ask you to state whether or not he has the standing of a foreman?

A. No, sir.

MR. KETTERER: That's all.

Cross Examination

Q. (By Mr. Lauter) But he has the standing of an Employees Representative, hasn't he?

A. What is that?

Q. He has the standing of an Employee Representative?

A. Ralph Eberle?

Q. That's right.

A. I don't know.

Q. How about Paul Hoffman?

A. I don't know.

Q. You don't know that?

A. No, sir.

Q. Do you know whether or not he asked any of the men to return to work?

A. Me?
Q. Yes, you.
A. I asked him, yes, if he wanted to come back to work.
Q. When did you ask him?
A. July 11th.
Q. How did you ask him?
A. At his home, I asked him if he wanted—
Q. Did you go out to his home?
A. Sir?
Q. Did you go to his home?
A. Yes, at his home.
Q. You went to his home?
A. Yes, sir.
Q. What other homes did you go to?
A. That is all.
Q. That is the only home?
A. At that time.
Q. Yes, I know, at that time.
A. I went out to three other homes after that.
Q. How close to that time?
A. About a week, I imagine.
Q. That is along about the same time, isn't it?
A. Yes, it is shortly after that.
Q. Now, you are known as Bill Hershberger, is that right?
A. Yes, sir.
Q. Your position is general foreman of the billet shed?
A. Yes, sir.
Q. Sherman Ebbert worked in your department as cold saw operator?
A. Yes, sir.
Q. You went to Sherman Ebbert's home?
A. Yes, sir.
Q. About July 11th?

A. Sir?
Q. Or 12th?
A. July 11th.
Q. July 11th, you say?
A. Yes, sir.
Q. And you had a conversation with him?
A. I asked him if he wanted to come back to work.
Q. You knew there was a strike on?
A. Yes, sir.
Q. You knew that it had not been called off by July 11th or 12th, is that right?
A. As far as I know.
Q. Who suggested that you go to the home of your employees?
A. Mr. Ralph Eberle, the superintendent.
Q. What did he tell you?
A. Sir?
Q. What did he tell you?
A. He told me to go out and ask them—ask him if he wanted to come back to work.
Q. Whom else did he suggest that you go out to see?
A. Chester Moore and Hugh Merriman and Louis Wetzel.
Q. And you visited the homes of these four men?
A. I stopped out in front of the house.
Q. Was it Peppard who told you to speak to these four men?
A. Yes, sir.
Q. Did he specifically name these four men?
A. Yes, sir.
Q. Did he name any others?
A. No, sir.
Q. Do you know what else did he say about these four men that he told you to speak to?
A. That is all, he just asked me to go out, see if they wanted to go back to work.

Q. Do you remember when that happened?

A. I don't remember the dates, it is about, I imagine about a week after I went out after Mr. Ebbert.

Q. So he told you before you went out to Ebbert's didn't he?

A. No, it was after he sent me to see if Mr. Ebbert wanted to come back. That is the only one he mentioned that day.

Q. Well, Peppard spoke to you to go to see whether Ebbert wanted to come back to work, before you actually went to see Ebbert, is that correct?

A. Yes, sir.

Q. You went to see Ebbert on July 11?

A. Yes, sir.

Q. Now, when did Peppard speak to you about going to see Mr. Ebbert? On July 11th or before that?

A. No, sir, July 11th.

Q. The same day that you went?

A. Yes, sir.

Q. Where was that conversation held with Mr. Peppard?

A. In his office.

Q. About what time of day?

A. 12 o'clock noon.

Q. How long did the conversation last?

A. About half a minute.

Q. Is that all he said to you?

A. That is all. He just told me to go out and ask him if he wanted to come back to work.

Q. Before you went out to see Chester Moore, did the same thing happen?

A. Yes, sir.

Q. Peppard called you in his office?

A. Yes, sir.

Q. And told you to go to see if Chester Moore wanted to go back to work?

A. Yes, sir.

Q. You have given me four names. Are those the only four names that Peppard told you to go out and see if they wanted to go back to work?

A. Yes, sir.

Q. Were any instructions given to you by Mr. Peppard about getting the rest of the men to work, that you have?

A. No, sir.

Q. Back to work?

A. No, sir.

Q. Make any inquiries?

A. No, sir.

Q. You don't know why these four men were selected?

A. No, I don't.

Q. Are you sure?

A. I guess he wanted them on the job, that is all I know.

Q. What is that?

A. He wanted to know if they wanted to work.

Q. And you don't know why he selected these four men?

A. No, sir.

Q. How many men are there working in your department?

A. All told between 7 and 800.

Q. Out of these 7 or 800 Mr. Peppard picked out these four?

A. Yes, sir.

Q. You went to see Mr. Ebbert on July 11th, what did you say to Mr. Ebbert?

A. I asked him if he wanted to come back to work.

Q. What did he say?

A. He said "Yes."

Q. Is that the extent of the conversation, or was there more to it?

A. That is all.

Q. When did he come back to work?
A. July 12th.
Q. Now, do you know Ralph Eberle?
A. Yes, sir.
Q. Is he a head loader, right?
A. Loader.
Q. Isn't he a head loader?
A. Not the head loader.
Q. You are sure he is not a head loader?
A. His title is loader, not head loader.
Q. Does he carry on the activities of a loader even if he hasn't got the title of a head loader?
A. We don't have a title like that.
Q. You don't have a title like a head loader?
A. No, sir.
Q. And none of the men in the mill are known as head loaders?
A. No, sir.
Q. What are the duties of Ralph Eberle? Describe them.
A. Keep things going. Get the shipments ready for shipping; check the orders.
Q. Do you know whether or not he was soliciting members for the Independent Association of Republic Employees?
A. No.
Q. You don't know or you do know that he wasn't?
A. I don't know.
Q. You don't know?
A. No, nothing about it.
Q. Do you know if any of the men in the plant at or about that time were soliciting for membership in the Independent Association of Republic Employees?
A. No, sir, I don't.
Q. You don't know that Paul Hoffman was an em-

ployee's representative under the Employees Representation Plan?

A. He was.

Q. He was?

A. Yes, sir, prior to the time he was taken out.

Q. Up to the time he was taken out?

A. Yes, sir.

Q. When was he taken out?

A. I can't tell you the date.

Q. You don't even know that he was taken out, do you?

A. No, I don't know that he was.

Q. As far as you know—

A. As far as I know.

Q. As far as you know, he is still an employee's representative?

A. Yes, sir.

Q. As far as you know, he still is?

A. Yes, sir.

Q. You don't know that he is not an employee's representative, do you?

A. I don't know if he is now or not but he was.

Q. Now, he is a head piler?

A. A piler.

Q. They don't use head piler or head loader?

A. No, sir.

Q. You don't know whether he was soliciting members for the Independent Association of Republic Employees in the plant?

A. No, sir, I don't.

Q. Mr. Eberle worked there from July 11th to August 6th?

A. Yes, sir.

Q. Worked satisfactorily?

A. Yes, sir.

Q. Did he tell your men that it is not necessary to belong to any Union in order to work in the plant?

A. No, sir.

Q. Never told him that?

A. No, sir.

Q. Did you ever speak against the C. I. O. in the plant?

A. No, sir.

Q. Did you ever speak for the Employees Representation Plan?

A. No, sir.

Q. Never spoke a word?

A. No, sir, never talked to no one.

Q. Is that right?

A. Yes, sir.

Q. Did you ever hear Mr. Peppard make any speeches?

A. No, sir.

Q. Never heard any speeches in the plant?

THE WITNESS: May I have the question?

MR. LAUTER: Read the question.

(The last question was read.)

Q. Never heard any speeches made in the plant directly before the strike?

A. No, sir.

Q. What were the circumstances in which Sherman Edwards stopped working there?

A. I don't know.

Q. You were there when he and some men came in the office?

A. You mean when they came in the office?

Q. Yes, sir.

A. I was there when the men came in and he came in, too.

Q. What did the men come in for?

A. They told Mr. Peppard that they didn't want to

work with him; they were going to treat him on the inside just as he treated them on the outside.

Q. You mean it is because he was a member of the C. I. O.?

A. I don't know.

Q. You don't know?

A. Yes, sir, I can't tell.

Q. Was there a statement made there in the office to the effect that he was a member of the C. I. O.?

A. No, sir.

Q. And the C. I. O. was making it difficult for them?

A. I don't know.

Q. How many men came into the room at that time?

A. About 15.

Q. Who spoke?

A. Mr. Schwartz.

Q. Who else?

A. That is all.

Q. Just one spokesman?

A. Yes, sir.

Q. For all 15 men?

A. Yes, sir.

Q. How long were they in the room?

A. Two or three minutes.

Q. Schwartz was the only one that spoke?

A. That is the only one I can remember.

Q. You remember him speaking?

A. Yes, sir.

Q. Who else spoke?

A. That is all. I don't remember anyone else.

Q. Everyone else remained silent, is that correct?

A. What?

Q. Everyone else remained silent, is that correct?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir.

Q. What did Schwartz say?

A. He asked the boss if it is all right that they—if it was all right with them, and they nodded their heads and said: "O. K." Some did; yes. That is all.

Q. What is that?

A. Some of them said yes, it was O. K. with them.

Q. Then what happened?

A. Turned around and went out to work.

Q. Is that the extent of the conversation that was made at that time?

A. Yes, sir.

Q. When was the first time when they said that he had made it difficult for them on the outside?

A. He did make that statement.

Q. Who?

A. Mr. Schwartz.

Q. He made that statement?

A. Yes, sir.

Q. That is all he said?

A. That is all he said.

Q. What did Mr. Peppard say?

A. He asked them if they would reconsider.

Q. Yes.

A. Until he could straighten the thing out. They said: "Yes".

Q. Do you know whether there were any subsequent meetings with any of these men in the plant?

A. No, sir.

Q. Do you know whether men in the plant had been voting on whether or not members of the C. I. O. should remain in the plant at work?

A. No, sir.

Q. You don't know anything about that?

A. No, sir.

Q. You haven't heard anything about it?

A. No, sir.

Q. Do you know of any other case in which they voted on working with those men in the plant or not?

A. No, sir.

MR. LAUTER: That is all.

MR. KETTERER: That is all.

(Witness excused.)

ARTHUR KEMP

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Ketterer) Will you state your full name, please?

A. Arthur Kemp.

Q. Where do you live, Mr. Kemp?

A. Massillon.

Q. By whom are you employed?

A. Republic Steel.

Q. And in what capacity are you employed at the Republic Steel Corporation?

A. Rougher on a hot mill.

Q. How long have you worked for Republic Steel Corporation or its predecessors?

A. About 18 years.

Q. Have you been a rougher during all that period of time?

A. No; I used to be a heater until they put an automatic furnace in. So I had to get myself a new job.

Q. How long have you been a rougher?

A. About five years.

Q. Now, are you acquainted with a man by the name of Russ Eckroad?

A. Yes, he roughed on the next mill to me.

Q. How long did he rough next to you there?

A. Well, at least three or four years.

Q. Now, do you recall the occasion of a meeting in the office of the superintendent, Mr. Alvin Smith, some time in April, 1937?

A. Yes, sir.

Q. Were you present there?

A. Yes, sir.

Q. Was Russell Eckroad there, to your knowledge?

A. Yes, sir.

Q. Now, did Mr. Alvin Smith say anything at that meeting? Did he make any talk of any kind? You can answer that yes or no.

A. He gave us a speech on the quality of sheets which they had. He told us we would have to keep on the job and make better sheets as the strip mills were cutting in on us, and it was hard to keep the costs in the strip mill down. We wanted to—that if we wanted to keep on working, we would have to make good work. He said he was working with us just the same as the rest of us, and if we could not keep the cost down, he would be out of a job the same as the rest of us.

Q. Do you recall anything else that he said at that time.

A. Well, he brought up some things about general unrest in the country. He said he is not telling us what we should do but we should use good judgment. He said the policy of the Republic Steel was that a man can belong to any Union but if we do, we take our own chances. If we could not make costs in the plant, they would not operate; that was certain.

Q. Do you recall anything else that he said then?

A. Well, no, except that they talked about the condition of sheets and the strip mills and stuff.

Q. Now, I will ask you to state whether or not Mr. Smith said in that talk at which you were present that Mr. Eckroad was present then, or this in substance: He

said he thought everybody was satisfied with the Company Representation Plan, and that if the C. I. O. organization would come in there, there was still a good chance of not working?

A. I didn't hear that.

Q. I will ask you whether or not he said this or this in substance: While you were present, if the C. I. O. got in there, that it would shut down the plant; if it didn't they would only work one or two days a week after that?

A. No, sir.

Q. Now, did anybody else talk at that meeting, if you recall?

A. Well, Dave Lewis, he gave a talk.

Q. By the way, who is Alvin Smith?

A. He is superintendent of the sheet division.

Q. Who is Dave Lewis?

A. He is our turn foreman.

Q. Do you recall anything that Mr. Lewis said at that meeting?

A. Well, Mr. Lewis, he told us we was all working good; we was making good money—buying everything. He said before we did anything that is rash we want to consider all things carefully.

Q. Now, did Mr. Lewis make any statement like this or this in substance at this meeting: If this thing happens, if the C. I. O. comes in here and forces a strike in this plant, and this plant shuts down, a lot of you boys are going to lose your homes and your automobiles, and you don't know where the next bite would come from?

A. I didn't hear the C. I. O. mentioned.

MR. KETTERER: That is all.

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